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JAN 27 1981

UNIVERSITY OF DENVER

**Report to the Colorado General Assembly**

**RECOMMENDATIONS FOR 1981  
COMMITTEES ON:**

**LOCAL GOVERNMENT  
HUMAN SETTLEMENT POLICIES  
EDUCATION AND  
TRANSPORTATION**



**COLORADO LEGISLATIVE COUNCIL**

**RESEARCH PUBLICATION No. 250**

**December, 1980**

LEGISLATIVE COUNCIL  
OF THE  
COLORADO GENERAL ASSEMBLY

Senators

Fred Anderson,  
Chairman  
Robert Allshouse  
Kegis Groff  
Barbara Holme  
harold McCormick  
Dan Noble  
Don Sandoval

Representatives

John Hamlin,  
Vice-Chairman  
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Robert Durford  
Steven Durham  
Bob Leon Kirscht  
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Betty Orten

\* \* \* \* \*

The Legislative Council, which is composed of six Senators, six Representatives, plus the Speaker of the House and the Majority Leader of the Senate, serves as a continuing research agency for the legislature through the maintenance of a trained staff. Between sessions, research activities are concentrated on the study of relatively broad problems formally proposed by legislators, and the publication and distribution of factual reports to aid in their solution.

During the sessions, the emphasis is on staffing standing committees, and, upon individual request, supplying legislators with personal memoranda which provides them with information needed to handle their own legislative problems. Reports and memoranda both give pertinent data in the form of facts, figures, arguments, and alternatives.

100-112,  
52.  
Colorado  
100-112

*Colorado Legislative Council, Committee on  
"Local Government."*

COLORADO LEGISLATIVE COUNCIL  
"RECOMMENDATIONS FOR 1981"

Committees on:

Local Government  
Human Settlement Policies  
Education  
Transportation

Legislative Council  
Report to the  
Colorado General Assembly

Research Publication No. 250  
December, 1980

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## LEGISLATIVE COUNCIL

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DENVER, COLORADO 80203  
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AREA CODE 303

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REP. PHILLIP MASSARI

To Members of the Fifty-third Colorado General Assembly:

Submitted herewith are the final reports of the Legislative Council interim committees for 1980. This year's reports of the fourteen committees are contained in nine volumes of research publications (Research Publication Nos. 249 through 257).

Respectfully submitted,

/s/ Senator Fred Anderson  
Chairman  
Colorado Legislative Council

FA/sh

## FOREWORD

The recommendations of the Colorado Legislative Council for 1980 appear in nine separate volumes (Research Publication Nos. 249 through 257). The Legislative Council reviewed the reports contained in this volume (Research Publication No. 250) at its meeting on November 24, 1980. The Legislative Council voted to transmit the bills included herein to the 1981 Session of the General Assembly.

The committees and staff of the Legislative Council were assisted by the staff of the Legislative Drafting Office in the preparation of bills and resolutions contained in this Volume. Gary Davis assisted the Committee on Local Government; Bill Hobbs, the Committee on Human Settlement Policies; Pat Boyle and Becky Lennahan, the Committee on Education; and Pat Boyle, the Committee on Transportation.

December, 1980

Lyle C. Kyle  
Director

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LEGISLATIVE COUNCIL  
COMMITTEE ON LOCAL GOVERNMENT

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Principal Analyst

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Senior Research Assistant

Senate Joint Resolution 26 of the 1980 Session of the General Assembly directed the Interim Committee on Local Government to undertake the following:

(a) a study of the statutory description of county boundaries in Colorado; and

(b) a study of state disaster emergency services, including the "Colorado Disaster Emergency Act of 1973", the state's Division of Disaster Emergency Services, and emergency preparedness on the part of county and local agencies. The study was to examine current and anticipated sources of funding for providing disaster emergency services at all levels, long-range preventative and mitigative measures to lessen the impact of any emergency, future communication improvements needed for emergency management, and any other area which the division of disaster emergency services thought worthy of analysis in order to provide acceptable disaster emergency services for the people of Colorado.

## COUNTY BOUNDARY DESCRIPTIONS

### Background

Article 5 of Title 30, C.R.S. 1973, as amended, provides boundary descriptions of all sixty-three counties in Colorado. Many of these descriptions, however, were written in the 1860's, 1870's, and 1880's and have never been amended despite changes caused by the creation of new counties. Further, language used to delineate county boundaries is not consistent throughout Article 5 and is not exact according to modern legal and geographical standards.

With the assistance of Mr. Erl Ellis, a retired Denver attorney, the committee divided the counties into three groups according to the type of problem in their descriptions. The first group of twenty counties (Group One) were those with essentially correct descriptions which needed improvements in geographical references for consistency. These counties are listed below:

|             |          |            |          |
|-------------|----------|------------|----------|
| Alamosa     | Delta    | Kit Carson | Phillips |
| Cheyenne    | Gilpin   | Lincoln    | Prowers  |
| Clear Creek | Huerfano | Mineral    | Sedgwick |
| Crowley     | Jackson  | Moffat     | Teller   |
| Custer      | Kiowa    | Morgan     | Yuma     |

The second group, also twenty counties, (Group Two) consisted of counties whose descriptions are incorrect because they define older, larger counties that have been reduced in size when new counties were carved out of them. From the committee's perspective, it

was important that these Group Two counties have descriptions which could be corrected without creating boundary disputes between counties. (The committee expressed a desire to not involve itself in boundary description changes where there is potential disagreement or uncertainty between counties.) The Group Two counties are:

|          |          |            |            |
|----------|----------|------------|------------|
| Baca     | Elbert   | Larimer    | Pueblo     |
| Bent     | El Paso  | Las Animas | Rio Grande |
| Conejos  | Fremont  | Logan      | Saguache   |
| Costilla | Gunnison | Montrose   | Washington |
| Douglas  | Lake     | Otero      | Weld       |

The third group of counties, (Group Three) numbering twenty-three, were those with boundary descriptions requiring major rewriting of the current legal description in coordination with county governments. Description corrections for these counties appeared to necessitate significant amounts of research by counties including agreement between counties over vague boundaries. The Group Three counties are listed below:

|           |           |           |            |
|-----------|-----------|-----------|------------|
| Adams     | Dolores   | La Plata  | Rio Blanco |
| Arapahoe  | Eagle     | Mesa      | Routt      |
| Archuleta | Garfield  | Montezuma | San Juan   |
| Boulder   | Grand     | Ouray     | San Miguel |
| Chaffee   | Hinsdale  | Park      | Summit     |
| Denver    | Jefferson | Pitkin    |            |

#### ~~Committee Action~~

A bill containing proposed new boundary descriptions for Group One counties was mailed to the respective boards of county commissioners for comments and approval. The same process was followed for Group Two counties. The committee agreed that only those counties who approved of their proposed new boundary descriptions would be included in a proposed statutory change. The Group One and Group Two counties which approved of their new boundary descriptions (after some revision to reconcile board of county commissioner suggestions and comments) are listed as follows:

|         |          |         |          |
|---------|----------|---------|----------|
| Alamosa | Gilpin   | Lake    | Phillips |
| Douglas | Huerfano | Lincoln | Prowers  |
| El Paso | Jackson  | Mineral | Sedgwick |
| Fremont | Kiowa    | Otero   | Weld     |

Only Moffat, Teller, Gunnison and Saguache counties disapproved their proposed new boundary descriptions entirely. The rest of the Group One and Group Two counties did not respond to the committee's inquiry.

Insofar as the Group Three counties are concerned, the committee decided not to attempt to correct problems in their boundary descriptions. However, Mr. Ellis on his own initiative contacted the

Group Three counties. He encouraged each county to write the committee if they desired to be included in a draft bill. The committee received letters suggesting such action from Chaffee, Hinsdale, Montezuma, San Juan and Summit Counties but makes no recommendation for this group.

#### County Boundary Descriptions -- Bill 1

Bill 1 revises and corrects statutory descriptions of sixteen counties: Alamosa, Douglas, El Paso, Fremont, Gilpin, Huerfano, Jackson, Kiowa, Lake, Lincoln, Mineral, Otero, Phillips, Prowers, Sedgwick and Weld. The board of county commissioners in each of these counties have approved their respective descriptions.

The rationale behind changes made by Bill 1 is contained in the legislative declaration. That is, the revisions in boundary descriptions are to establish more precise definitions: "It is not the intent of the general assembly to effect the transfer of land from one county to another or to adversely affect the title of any property merely because of the redefinition of county boundaries." The boundary revisions attempt to inject technically more accurate and consistent references to parallels, meridians, range lines and township lines into the statutes and may be used as standards for further changes in other county boundary descriptions.

A map on the following page identifies the counties included in Bill 1.

### DISASTER EMERGENCY SERVICES

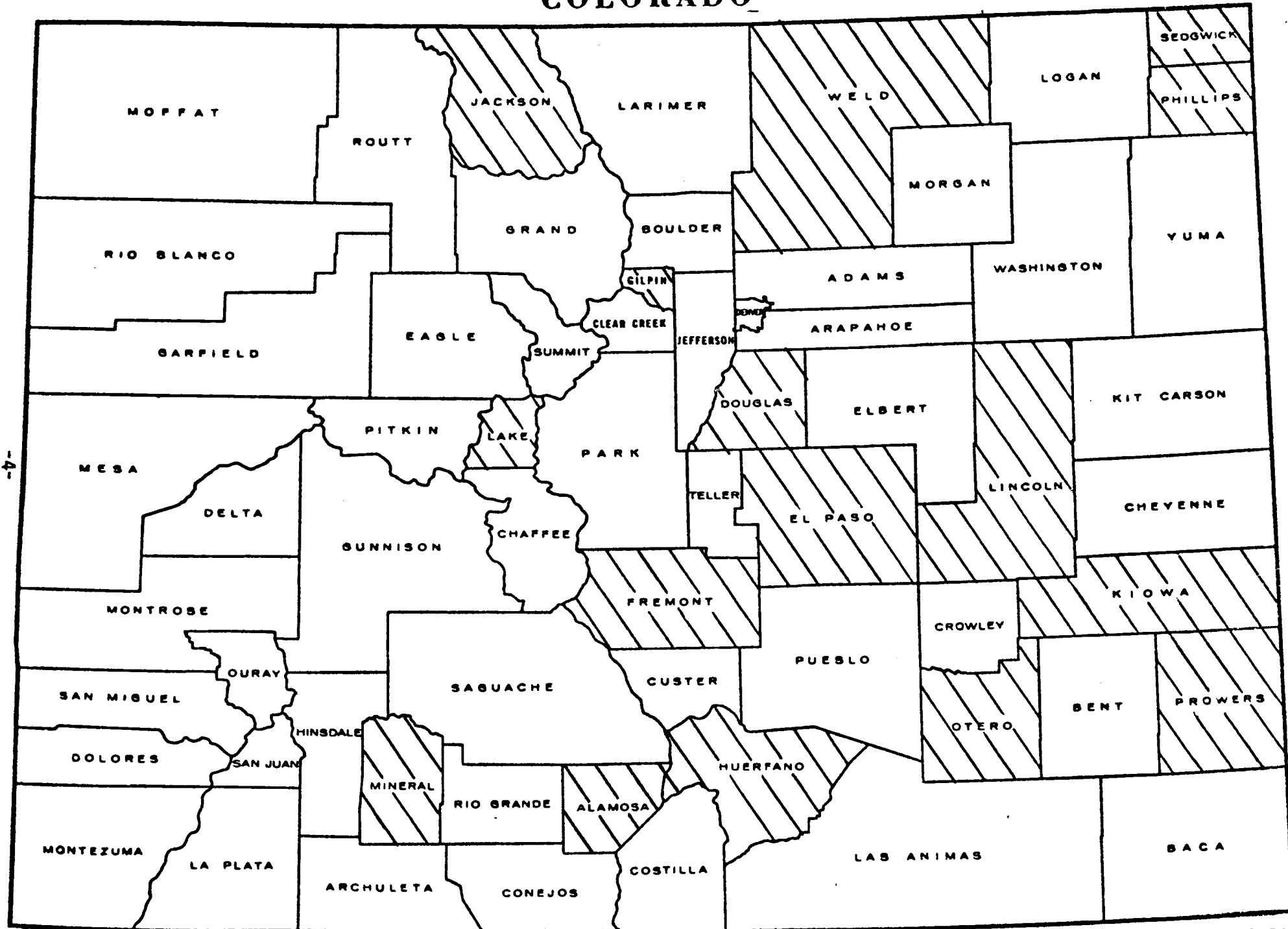
#### Background

The committee decided at its first meeting to investigate the alleged shortcomings in disaster emergency preparedness and funding from three perspectives: the problems faced by local governments in adequately preparing for and recovering from disasters; the extent of federal assistance to state and local governments for disaster preparedness and recovery; and the needs of the Division of Disaster Emergency Services (the division). Disaster mitigation, preparedness, response and recovery were the main concerns in this evaluation.

#### Local Government Problems

The committee heard testimony from both local disaster officials and the Division of Disaster Emergency Services on the current conditions of local disaster agencies. The primary issues are as follows.

# COLORADO



Preparedness. Although counties and designated municipalities are required by statute to have disaster plans which conform to the division's requirements, only twelve counties (all of them along the front range) now have such comprehensive plans. This is the result of inadequate funding by counties themselves and a lack of division staff time to perform on-site evaluations of local disaster agencies. Federal funds for such planning are limited and as a result only a few counties receive matching grants. More counties are willing to spend money on disaster preparedness when matching funds become available. Further, some counties are willing to contribute to an interjurisdictional disaster agency if federal and state matching funds are provided.

Response. Even for counties with disaster plans, the reliability of such plans is questionable because there are few tests and exercises of local disaster plans. The Division of Disaster Emergency Services has plans to carry out tests and exercises for each local disaster agency but limited staff may prevent them from accomplishing this goal for three to five years.

Recovery. According to the Division of Disaster Emergency Services, no counties, other than Denver, presently have separate disaster contingency funds. They depend instead on the availability of state and federal moneys to help them recover from a disaster. This condition may be attributed to a provision of state law which states the intent of the General Assembly that money will always be available to meet disaster emergencies. In addition, there is an absence of statutory directions regarding minimum levels of local expenditures for disasters. As a result, the division has evaluated county requests for state assistance on an ad hoc basis and has made recommendations to the Governor according to perceived local capabilities.

Mitigation. Little if any disaster mitigation has taken place at the local level, although flood warning devices are being installed in some counties. The division suggested that the cost of mitigation and preparedness is much less than the cost of disasters and recommended that the state establish incentives for counties which take action towards mitigating disasters. Currently, the Federal Emergency Management Agency requires that local governments have a mitigation plan before relief recovery funds are set in motion. The Governor has also recently required local governments to sign agreements regarding mitigation as a condition to state aid.

### Federal Assistance

The committee met with members of the Federal Emergency Management Agency (FEMA) and the National Guard to clarify the extent of federal assistance for disaster emergencies. In only two areas does federal disaster assistance play a significant role: preparedness and recovery.

Preparedness. In the area of disaster preparedness, the fed-

eral government gave Colorado \$607,900 in fiscal year 1980. Approximately \$412,000 of this money was available as matching grants to state and local disaster agencies (the state passed on about \$315,000 to local agencies) for use in preparing for natural disasters. The rest was designated for civil defense purposes. Similarly, federal funds were made available directly to local governments for civil defense. Federal preparedness assistance is expected to decrease in some programs, including training and education. This will place greater dependence on state and local disaster preparedness programs.

Recovery. Applications for federal funds for disaster recovery are generally made as soon as the Governor makes a disaster declaration. However, federal disaster aid is contingent upon evidence of a large-scale disaster beyond the capabilities of local and state resources. Thus, in smaller disasters such as the Larimer County flood incident of 1980, state and local governments were left to finance the recovery without federal aid. It is projected that the federal government will no longer contribute 100 percent funding to disaster recovery efforts even when there is a large disaster. Instead, state and local governments will be left to fund up to twenty-five percent in such large disaster recovery efforts.

#### State Division of Disaster Emergency Services' (DODES) Needs

The committee visited the State Emergency Operations Center and included testimony from the deputy director of the division throughout the interim. The division outlined the following concerns.

Preparedness. The Division of Disaster Emergency Services is statutorily assigned to assist local officials with disaster plans as well as to test, train and examine local agencies and plans. The present staff has been unable to accomplish this task in a reasonable amount of time. At the current staffing level, it was reported that it will take approximately three to five years to complete on-site inspection programs (ten on-site evaluations per year) in all local disaster agencies. Further, since the federal government is reducing training and education funds, there will be less staff to handle on-site evaluations. Thus, the division is requesting funding for five additional full time equivalent positions for fiscal year 1982 in order to better perform on-site functions. Two of these positions would be used at the division's offices as administrative personnel.

Response. The Division of Disaster Emergency Services has been successful in coordinating responses to actual disasters although few disaster exercises have been completed. The division would alleviate this problem by using one of the requested five new positions for full-time testing and disaster exercises. Additionally, it was reported that money is needed to maintain the Emergency Operations Center in a state of readiness for disaster responses.

Recovery. Since the Division of Disaster Emergency services plays an important role in securing federal funds in a disaster, one



of the requested administrative personnel will be used to speed up the paperwork for federal disaster recovery funds. But, for smaller disasters, the division is concerned about the state's contribution to disaster recovery. Because of statutory language that provides for a state disaster fund and states that "... funds to meet disaster emergencies shall always be available ...", the division recommended that the General Assembly make administration of these monies less ambiguous. Suggestions for administration of state disaster recovery aid were accepted by the committee and appear in Bill 2. Further suggestions by the division for state disaster aid focused on designating a set amount or percentage of financial responsibility for disaster recovery for local governments, taking into consideration the efforts made by local governments in disaster preparedness and mitigation when determining amounts of state aid, and using state disaster funds to refund state agencies which contribute heavily in a disaster.

Mitigation. The Division of Disaster Emergency Services has no authority to enforce mitigative measures except when state aid is being allocated. This aid is conditioned by an agreement that the local government will take steps to prevent a similar disaster from occurring again. Because the costs of disasters is a burden on state and local governments, the division recommended instituting another mechanism for obtaining compliance from local governments with state disaster mitigation measures. The only mitigative investment requested by the division is a new command post vehicle to facilitate more effective response capabilities and minimize the adverse effects of a disaster in a hard to reach area.

#### Concerning Disaster Emergency Services -- Bill 2

The committee followed the recommended parameters for disaster fund authorization as proposed by the division. In general, changes proposed in the bill were viewed as steps to help resolve potential conflicts in the present ad hoc methods of funding disaster recoveries.

An annual minimum balance of \$500,000 in the disaster emergency fund is provided in order to ensure availability of state funds for disasters. With regard to the expenditure of these and other state monies for disaster relief, the bill seeks to amend the current law as follows:

28-2-106. Financing. (4) It is the legislative intent that first recourse be to funds regularly appropriated to state and local agencies. If the governor finds that the demands placed upon these funds in coping with a particular disaster are unreasonably great, he may, with the concurrence APPROVAL of the council, may transfer and expend moneys appropriated for other purposes. THE COUNCIL SHALL REVIEW IN DETAIL EACH EXPENDITURE OF DISASTER EMERGENCY FUNDS.

The approval of the Disaster Emergency Council for an allocation of over \$500,000 is intended by the committee to maintain accountability in the use of funds. Moreover, the Governor must declare a disaster emergency before any money may be allocated from the disaster emergency fund. The bill intends to promote the efficient use of the disaster emergency fund and limits its application to disasters which are beyond the capabilities of local governments by granting rulemaking authority over the fund to the division. Efficient use of the fund is further guaranteed by mandating that the division submit an annual report to the General Assembly accounting for the uses of moneys from the disaster emergency fund.

The committee concludes that closer participation of the General Assembly in state disaster assistance issues will be promoted by including both the President of the Senate and the Speaker of the House as members of the Disaster Emergency Council. Currently, members of the council are the Attorney General, and the executive directors of the following departments of state government: administration, highways, local affairs, military affairs, and natural resources. The Governor serves as chairman of the group.

The law now provides that the declaration of a state of disaster emergency may not continue for longer than thirty days unless renewed by the Governor. The bill extends the time limitation to one year in recognition of the fact that governmental response and recovery efforts take far more time than recognized in the current law. The committee retained a provision of the present statute which allows the General Assembly to terminate a state of disaster emergency by joint resolution.

**BILL 1**

**A BILL FOR AN ACT**

**1 CONCERNING COUNTY BOUNDARIES.**

---

**Bill Summary**

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Revises and corrects certain county boundaries.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3       SECTION 1.   30-5-101, Colorado Revised Statutes 1973, 1977  
4 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

5       30-5-101. Legislative declaration - county boundaries.

6       (1) The general assembly recognizes that in the establishment of  
7 the state of Colorado the counties of the territory of Colorado  
8 were adopted as the counties of the new state and that there have  
9 been additional counties established by law and in accordance  
10 with then current methods of surveying and describing county  
11 boundaries. The general assembly finds and declares that it is  
12 desirable to revise the descriptions of county boundaries to  
13 update and establish by law more precise definitions of the

1 boundaries of the several counties of this state as they are  
2 known to exist with the use of modern methods and equipment. It  
3 is not the intent of the general assembly to effect the transfer  
4 of land from one county to another or to adversely affect the  
5 title of any property merely because of the redefinition of  
6 county boundaries.

7 (2) The following shall be the boundaries of the respective  
8 counties of this state.

9 SECTION 2. 30-5-103, Colorado Revised Statutes 1973, 1977  
10 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 30-5-103. Alamosa. Beginning at the southwest corner of  
12 section eighteen, township thirty-six north, range nine east;  
13 thence north on the west line of range nine east to its  
14 intersection with the tenth standard parallel north; thence east  
15 on said parallel to its intersection with the crest of the  
16 mountain range that divides the waters of the streams flowing  
17 westerly into the San Luis Valley from the waters flowing  
18 easterly in the drainage of the Huerfano River; thence southerly  
19 along said crest to Blanca Peak; thence southwesterly along the  
20 crest of the mountain range that divides the waters of the  
21 streams flowing westerly into the San Luis Valley from the waters  
22 of the drainage of Blanca Creek to the peak on said crest lying  
23 two-tenths of a mile, more or less, southerly of Little Bear  
24 Peak, said peak being on the boundary of the Sangre de Cristo  
25 Grant; thence along a straight line, on the boundary of said  
26 Grant, running south forty-three degrees twenty minutes west, to

1 its intersection with the southern boundary of the northern half  
2 of township thirty-six north; and thence west on said southern  
3 boundary to the point of beginning. Said public land survey  
4 lines are based upon the New Mexico principal meridian.

5 SECTION 3. 30-5-120, Colorado Revised Statutes 1973, 1977  
6 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

7 30-5-120. Douglas. Beginning at the intersection of the  
8 center of the South Platte River with the first standard parallel  
9 south; thence east on said parallel to its intersection with the  
10 eastern boundary of the western half of range sixty-five west;  
11 thence south on said eastern boundary to its intersection with  
12 the south line of township ten south; thence west on said  
13 township line to its intersection with the center of the South  
14 Platte River; and thence northeasterly along the center of said  
15 river to the place of beginning. Said public land survey lines  
16 are based upon the sixth principal meridian.

17 SECTION 4. 30-5-123, Colorado Revised Statutes 1973, 1977  
18 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

19 30-5-123. El Paso. Beginning at the intersection of the  
20 west line of range sixty-seven west with the south line of  
21 township seventeen south; thence north on said range line to the  
22 northwest corner of section six, township sixteen south, range  
23 sixty-seven west; thence east on the north line of said section  
24 six to the southwest corner of section thirty-one, township  
25 fifteen south, range sixty-seven west; thence north on the west  
26 line of range sixty-seven west to the northwest corner of section

1 thirty-one, township fourteen south, range sixty-seven west;  
2 thence west on section lines to the southwest corner of section  
3 twenty-five, township fourteen south, range sixty-nine west;  
4 thence north on section lines to the northwest corner of section  
5 one, township fourteen south, range sixty-nine west; thence east  
6 on the north line of township fourteen south to the southwest  
7 corner of section thirty-two, township thirteen south, range  
8 sixty-eight west; thence north on section lines to the second  
9 standard parallel south; thence east on said parallel to its  
10 intersection with the east line of range sixty west; thence south  
11 on said range line to its intersection with the south line of  
12 township seventeen south; and thence west on said township line  
13 to the place of beginning. Said public land survey lines are  
14 based upon the sixth principal meridian.

15 SECTION 5. 30-5-124, Colorado Revised Statutes 1973, 1977  
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17 30-5-124. Fremont. Beginning at the intersection of the  
18 fourth standard parallel south with the east line of range  
19 sixty-eight west; thence north on said range line to its  
20 intersection with the northern boundary of the southern half of  
21 township sixteen south; thence west on said northern boundary to  
22 the southeast corner of section seventeen, township sixteen  
23 south, range seventy west; thence north on section lines to the  
24 third standard parallel south; thence west on said parallel to  
25 its intersection with the crest of the divide on the east side of  
26 the drainage areas of the Arkansas River, being a point

1 approximately one-half mile east of the southwest corner of  
2 section thirty-five, township fifteen south, range seventy-seven  
3 west; thence southerly along said crest, via Cameron Mountain, to  
4 a point on said crest divide lying north eighty-four degrees  
5 twenty-five minutes east, eighty-eight hundred and ninety-seven  
6 feet from a point on the Arkansas River three miles below the  
7 mouth of the South Arkansas River; thence westerly on a straight  
8 line to said point on the Arkansas River; thence on a straight  
9 line bearing south forty-five degrees ten minutes west, to the  
10 intersection of said line with the crest of the Sangre de Cristo  
11 Range; thence southeasterly along said crest to its intersection  
12 with the fourth standard parallel south; thence east on said  
13 parallel to the place of beginning. Said public land survey  
14 lines are based upon the sixth principal meridian.

15 SECTION 6. 30-5-126, Colorado Revised Statutes 1973, 1977  
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17 30-5-126. Gilpin. Beginning at the confluence of the  
18 center of North Clear Creek with the center of Clear Creek;  
19 thence due north to the center of South Boulder Creek; thence up  
20 the center of South Boulder Creek to where it intersects the  
21 monumented survey line between Gilpin and Boulder counties;  
22 thence due west along said monumented survey line to the crest of  
23 the continental divide; thence southerly on the continental  
24 divide to its intersection with the dividing ridge between North  
25 Clear Creek and Clear Creek drainage basins; and thence  
26 southeasterly along said ridge to the place of beginning.

1           SECTION 7. 30-5-131, Colorado Revised Statutes 1973, 1977  
2   Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

3           30-5-131. Huerfano. Beginning at the summit of Greenhorn  
4   Mountain; thence following the crest of the main range of  
5   mountains around the headwaters of the Huerfano and Cucharas  
6   rivers to the summit of the easterly of the two Spanish peaks;  
7   thence northeasterly along the dividing ridge between the waters  
8   of the Santa Clara and Apishapa rivers to the intersection of  
9   said ridge with a straight line from Corral de Toros on the  
10   Huerfano River to the Iron Springs; thence northwesterly along  
11   said line to the Corral de Toros; and thence on a straight line  
12   westerly to the place of beginning.

13          SECTION 8. 30-5-132, Colorado Revised Statutes 1973, 1977  
14   Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

15          30-5-132. Jackson. Beginning at the intersection of the  
16   north boundary line of Colorado with the continental divide;  
17   thence along said divide to the point where it intersects the  
18   Medicine Bow Mountains; thence northerly along the crest of the  
19   Medicine Bow Mountains to the north boundary line of Colorado;  
20   and thence west along said Colorado boundary line to the place of  
21   beginning.

22          SECTION 9. 30-5-134, Colorado Revised Statutes 1973, 1977  
23   Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

24          30-5-134. Kiowa. Beginning at the point of intersection of  
25   the east boundary line of Colorado with the south line of  
26   township twenty south; thence west on said township line to its



1 intersection with the west line of range fifty-four west; thence  
2 north on said range line to the northwest corner of township  
3 twenty south, range fifty-four west; thence west on the south  
4 line of township nineteen south, range fifty-four west, to the  
5 southwest corner of said township and range; thence north on the  
6 west line of range fifty-four west to its intersection with the  
7 south line of township seventeen south; thence east on said  
8 township line to its intersection with the west line of range  
9 fifty-one west; thence north on said range line to its  
10 intersection with the south line of township sixteen south;  
11 thence east on said township line to the east boundary line of  
12 Colorado; and thence south on the Colorado boundary line to the  
13 place of beginning. Said public land survey lines are based upon  
14 the sixth principal meridian.

15 SECTION 10. 30-5-136, Colorado Revised Statutes 1973, 1977  
16 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

17 30-5-136. Lake. Beginning at the point on the continental  
18 divide from which the Tenmile Range departs northerly; thence on  
19 a due west line to its second intersection with the continental  
20 divide; thence westerly and then southerly along the continental  
21 divide to its intersection with the section line lying one mile  
22 north of the south line of township eleven south; thence east on  
23 section lines to an intersection with the range, known as the  
24 Mosquito Range, dividing the waters of the Arkansas and South  
25 Platte rivers; thence northerly along the crest of said range to  
26 its intersection with the continental divide; and thence

1     northeasterly along said divide to the place of beginning. Said  
2     public land survey lines are based upon the sixth principal  
3     meridian.

4             SECTION 11. 30-5-141, Colorado Revised Statutes 1973, 1977  
5     Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6             30-5-141. Lincoln. Beginning at the intersection of the  
7     first standard parallel south with the west line of range  
8     fifty-six west; thence south on said range line to its  
9     intersection with the second standard parallel south; thence west  
10    on said parallel to the northwest corner of section six, township  
11    eleven south, range fifty-six west; thence south on the west line  
12    of range fifty-six west to its intersection with the south line  
13    of township thirteen south; thence west on said township line to  
14    its intersection with the west line of range fifty-nine west;  
15    thence south on said range line to its intersection with the  
16    south line of township seventeen south; thence east on said  
17    township line to its intersection with the west line of range  
18    fifty-five west; thence south on said range line to the southwest  
19    corner of township seventeen south, range fifty-five west; thence  
20    east on the south line of said township and range to the  
21    southeast corner thereof; thence north on the east line of range  
22    fifty-five west to the southwest corner of township seventeen  
23    south, range fifty-four west; thence east on the south line of  
24    township seventeen south to the southeast corner of township  
25    seventeen south, range fifty-two west; thence north on the east  
26    line of range fifty-two west to its intersection with the third

1 standard parallel south; thence east on said parallel to the  
2 southeast corner of township fifteen south, range fifty-two west;  
3 thence north on the east line of range fifty-two west to its  
4 intersection with the second standard parallel south; thence east  
5 on said parallel to the southeast corner of township ten south,  
6 range fifty-two west; thence north on the east line of range  
7 fifty-two west to its intersection with the first standard  
8 parallel south; and thence west on said parallel to the place of  
9 beginning. Said public land survey lines are based upon the  
10 sixth principal meridian.

11 SECTION 12. 30-5-144, Colorado Revised Statutes 1973, 1977  
12 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

13 30-5-144. Mineral. Beginning at the intersection of the  
14 east line of range two east with the south line of township  
15 thirty-seven north; thence north on said range line to its  
16 intersection with the south line of township forty north, range  
17 two east; thence east on said township line to the southeast  
18 corner of said township and range; thence north on the east line  
19 of range two east to its intersection with the crest of the La  
20 Garita Mountains; thence northwesterly along the said crest to  
21 its intersection with the continental divide; thence westerly  
22 along the continental divide to its intersection with the west  
23 line of range two west; thence south on said range line to its  
24 intersection with the south line of township forty north, range  
25 two west; thence east on said township line to the northwest  
26 corner of township thirty-nine north, range two west; thence

1 south on the west line of range two west to its intersection with  
2 the south line of township thirty-seven north; and thence east on  
3 said township line to the place of beginning. Said public land  
4 survey lines are based upon the New Mexico principal meridian.

5 SECTION 13. 30-5-149, Colorado Revised Statutes 1973, 1977  
6 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

7 30-5-149. Otero. Beginning at the intersection of the  
8 south line of township twenty-seven south with the west line of  
9 range fifty-nine west; thence north on the west line of range  
10 fifty-nine west to the northwest corner of township twenty-six  
11 south, range fifty-nine west; thence west on the south line of  
12 township twenty-five south, range fifty-nine west, to the  
13 southwest corner of said township and range; thence north on the  
14 west line of range fifty-nine west to its intersection with the  
15 center of the Arkansas River; thence east and southeasterly with  
16 the center and meanderings of said river to its intersection with  
17 the north line of section twenty-eight, township twenty-two  
18 south, range fifty-seven west; thence east on section lines to  
19 the west line of range fifty-five west; thence north on said  
20 range line to its intersection with the north line of township  
21 twenty-two south; thence east on said township line to its  
22 intersection with the west line of range fifty-four west; thence  
23 north on said range line to its intersection with the fourth  
24 standard parallel south; thence east on said parallel to its  
25 intersection with the east line of range fifty-four west; thence  
26 south on said range line to the southeast corner of township

1 twenty-five south, range fifty-four west; thence west on the  
2 north line of township twenty-six south, range fifty-four west,  
3 to the northeast corner of said township and range; thence south  
4 on the east line of range fifty-four west to its intersection  
5 with the south line of township twenty-seven south; and thence  
6 west on said township line to the place of beginning. Said  
7 public land survey lines are based upon the sixth principal  
8 meridian.

9 SECTION 14. 30-5-154, Colorado Revised Statutes 1973, 1977  
10 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 30-5-154. Phillips. Beginning at the intersection of the  
12 south line of township six north with the east boundary line of  
13 Colorado; thence west along said township line to its  
14 intersection with the west line of range forty-seven west; thence  
15 north on said range line to its intersection with the second  
16 standard parallel north; thence east on said parallel to the  
17 southwest corner of township nine north, range forty-seven west;  
18 thence north on the west line of range forty-seven west to its  
19 intersection with the northern boundary of the southern half of  
20 township nine north; thence east on said northern boundary to its  
21 intersection with the east boundary line of Colorado; and thence  
22 south on said boundary line to the place of beginning. Said  
23 public land survey lines are based upon the sixth principal  
24 meridian.

25 SECTION 15. 30-5-156, Colorado Revised Statutes 1973, 1977  
26 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

1        30-5-156. Prowers. Beginning at the intersection of the  
2 eastern boundary line of Colorado with the south line of township  
3 twenty-seven south; thence west on said township line to its  
4 intersection with the west line of range forty-seven west; thence  
5 north on said range line to its intersection with the fifth  
6 standard parallel south; thence east on said parallel to the  
7 southwest corner of township twenty-five south, range forty-seven  
8 west; thence north on the west line of range forty-seven west to  
9 its intersection with the fourth standard parallel south; thence  
10 east on said parallel to the eastern boundary line of Colorado;  
11 and thence south on said boundary line to the place of beginning.  
12 Said public land survey lines are based upon the sixth principal  
13 meridian.

14        SECTION 16. 30-5-167, Colorado Revised Statutes 1973, 1977  
15 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

16        30-5-167. Sedgwick. Beginning at the northeast corner  
17 boundary of Colorado; thence west on the north boundary line of  
18 Colorado to its intersection with the west line of range  
19 forty-seven west; thence south on said range line to its  
20 intersection with the southern boundary of the northern half of  
21 township nine north; thence east on said southern boundary to the  
22 east boundary line of Colorado; and thence north on said boundary  
23 line to the place of beginning. Said public land survey lines  
24 are based upon the sixth principal meridian.

25        SECTION 17. 30-5-171, Colorado Revised Statutes 1973, 1977  
26 Repl. Vol., is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

1        30-5-171. Weld. Beginning at the intersection of the west  
2 line of range sixty-eight west with the base line; thence north  
3 on said range line to its intersection with the north line of  
4 township four north; thence east on said township line to its  
5 intersection with the west line of range sixty-seven west; thence  
6 north on said range line to its intersection with the north  
7 boundary line of Colorado; thence east along said north boundary  
8 line to its intersection with the west line of range fifty-five  
9 west; thence south on said range line to the southeast corner of  
10 township nine north, range fifty-six west; thence west on the  
11 south line of said township and range to the northeast corner of  
12 township eight north, range fifty-six west; thence south on the  
13 west line of range fifty-five west to its intersection with the  
14 north line of township six north; thence west on said township  
15 line to its intersection with the west line of range sixty west;  
16 thence south on said range line to the southeast corner of  
17 township five north, range sixty-one west; thence west on the  
18 south line of said township and range to the northeast corner of  
19 township four north, range sixty-one west; thence south on the  
20 east line of range sixty-one west to its intersection with the  
21 base line; and thence west on the base line to the place of  
22 beginning. Said public land survey lines are based upon the  
23 sixth principal meridian.

24        SECTION 18. Repeal. 30-5-162, Colorado Revised Statutes  
25 1973, 1977 Repl. Vol., is repealed.

26        SECTION 19. Effective date. This act shall take effect

1 July 1, 1981.

2 SECTION 20. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary for  
4 the immediate preservation of the public peace, health, and  
5 safety.



BILL 2

A BILL FOR AN ACT

1 CONCERNING DISASTER EMERGENCY SERVICES, AND MAKING AN  
APPROPRIATION RELATING THERETO.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for an annual balance in the disaster emergency fund and makes an appropriation therefor. Allows the division of disaster emergency services to establish rules and regulations for the use of moneys from the disaster emergency fund.

Adds the speaker of the house of representatives and the president of the senate as members of the disaster emergency council.

Changes the period of time for the governor to renew his declaration of a state of emergency from thirty days to one year.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 28-2-104 (3) and (4), Colorado Revised Statutes  
4 1973, are amended to read:

5 28-2-104. The governor and disaster emergencies.

6 (3) There is hereby created a governor's disaster emergency  
7 council (referred to in this part 1 as the "council"), consisting  
8 of not less than five nor more than **nine** ELEVEN members. THE

1 PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF  
2 REPRESENTATIVES, the attorney general, and the executive  
3 directors of the following departments shall be members:  
4 Administration, highways, local affairs, military affairs, and  
5 natural resources. The additional members, if any, shall be  
6 appointed by the governor from among the executive directors of  
7 the other departments. The governor shall serve as chairman of  
8 the council, and a majority shall constitute a quorum. The  
9 council shall meet at the call of the governor and shall advise  
10 the governor and the director of the division of disaster  
11 emergency services on all matters pertaining to the declaration  
12 of disasters and the disaster response and recovery activities of  
13 the state government. However, nothing in the duties of the  
14 council shall be construed to limit the authority of the governor  
15 to act without the advice of the council when the situation calls  
16 for prompt and timely action when disaster threatens or exists.

17 (4) A disaster emergency shall be declared by executive  
18 order or proclamation of the governor if he finds a disaster has  
19 occurred or that this occurrence or the threat thereof is  
20 imminent. The state of disaster emergency shall continue until  
21 the governor finds that the threat of danger has passed or the  
22 disaster has been dealt with to the extent that emergency  
23 conditions no longer exist and terminates the state of disaster  
24 emergency by executive order or proclamation, but no state of  
25 disaster emergency may continue for longer than ~~thirty--days~~ ONE  
26 YEAR unless renewed by the governor. The general assembly, by

1 joint resolution, may terminate a state of disaster emergency at  
2 any time. Thereupon, the governor shall issue an executive order  
3 or proclamation ending the state of disaster emergency. All  
4 executive orders or proclamations issued under this subsection  
5 (4) shall indicate the nature of the disaster, the area  
6 threatened, and the conditions which have brought it about or  
7 which make possible termination of the state of disaster  
8 emergency. An executive order or proclamation shall be  
9 disseminated promptly by means calculated to bring its contents  
10 to the attention of the general public and, unless the  
11 circumstances attendant upon the disaster prevent or impede THE  
12 SAME, shall be promptly filed with the division of disaster  
13 emergency services, the secretary of state, and the county clerk  
14 AND RECORDER and disaster agencies in the area to which it  
15 applies.

16 SECTION 2. 28-2-106 (2), (4), and (5), Colorado Revised  
17 Statutes 1973, as amended, are amended, and the said 28-2-106 is  
18 further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

19 28-2-106. Financing. (2) A disaster emergency fund is  
20 hereby established, which ~~shall--receive--moneys--appropriated~~  
21 ~~thereto-by-the-general-assembly~~ FUND SHALL HAVE A BALANCE OF FIVE  
22 HUNDRED THOUSAND DOLLARS. Moneys in the disaster emergency fund  
23 shall remain therein until expended, AND, IF MONEYS ARE EXPENDED,  
24 THE BALANCE SHALL BE RESTORED TO FIVE HUNDRED THOUSAND DOLLARS  
25 ANNUALLY.

26 (4) It is the legislative intent that first recourse be to

1 funds regularly appropriated to state and local agencies. If the  
2 governor finds that the demands placed upon these funds in coping  
3 with a particular disaster are unreasonably great, he may, with  
4 the concurrence ADVICE of the council, make funds available from  
5 the disaster emergency fund; EXCEPT THAT NO MONEYS SHALL BE  
6 EXPENDED OUT OF THE DISASTER EMERGENCY FUND UNTIL THE GOVERNOR  
7 DECLARES A DISASTER EMERGENCY, AND, if moneys available from the  
8 fund are insufficient, the governor, with the concurrence  
9 APPROVAL of the council, may transfer and expend moneys  
10 appropriated for other purposes. THE COUNCIL SHALL REVIEW IN  
11 DETAIL EACH EXPENDITURE OF DISASTER EMERGENCY FUNDS.

12 (5) The deputy director is authorized to establish the  
13 rules and regulations which will govern the reimbursement-of  
14 funds--to--state--agencies--and--political--subdivisions--and--to  
15 promulgate--such--regulations USE OF MONEYS FROM THE DISASTER  
16 EMERGENCY FUND.

17 (7) The division of disaster emergency services shall  
18 submit an annual written report to the general assembly  
19 accounting for the uses of moneys from the disaster emergency  
20 fund by January 10 of each year.

21 SECTION 3. Appropriation. There is hereby appropriated,  
22 out of any moneys in the state treasury not otherwise  
23 appropriated, to the division of disaster emergency services for  
24 allocation to the disaster emergency fund, the sum of five  
25 hundred thousand dollars (\$500,000), for use in disaster  
26 emergencies. The moneys appropriated by this act shall become

1 available on the passage of this act and shall remain in said  
2 fund until expended and shall not revert to the general fund.

3 SECTION 4. Repeal. 28-2-106 (3), Colorado Revised Statutes  
4 1973, is repealed.

5 SECTION 5. Safety clause. The general assembly hereby  
6 finds, determines, and declares that this act is necessary for  
7 the immediate preservation of the public peace, health, and  
8 safety.

**LEGISLATIVE COUNCIL**  
**COMMITTEE ON HUMAN SETTLEMENT POLICIES**

**Members of the Committee**

Rep. James Lillpop,  
Chairman  
Sen. Ralph Cole,  
Vice-Chairman  
Sen. Regis Groff  
Sen. Al Meiklejohn

Rep. Anne McGill Gorsuch  
Rep. Miller Hudson  
Rep. Wayne Knox  
Rep. Frank Randall

**Council Staff**

Brian Mitchell  
Research Associate

Craig Steele  
Senior Research Assistant

The Committee on Human Settlement Policies was established by Senate Joint Resolution 26 to conduct "a study of the Human Settlements Policy promulgated by Executive Order of the Governor."

## Introduction

The origins of the Human Settlement Policies date back to September 1977, when the Department of Local Affairs' Division of Planning published a document entitled Growth and Human Settlement in Colorado. This document was the result of a research effort undertaken by the Division of Planning. After publication, this report was distributed in the fall of 1977 to state, federal, and local governmental agencies and boards of county commissioners for their review and comments. The recommended policies contained in the report were subsequently revised as a result of suggestions made by these agencies and an intra-departmental review conducted by the Department of Local Affairs. The next step in the process occurred in August of 1978 when the Department of Local Affairs began to use the Human Settlement Policies on an experimental basis in its reviews of applications for certain state and federal funding programs.

In the period from February through April 1979, hearings on the policies were held in the state's fourteen management and planning regions. As a result of the comments received at those hearings, the policies were once again amended. Finally, in September 1979 the Governor issued an executive order (D0018 79) directing all state agencies to "... immediately implement the Human Settlement Policies as fully as possible through their program decisions, advisory comments made in review through the A-95 system, program and legislative recommendations, and other advisory opportunities."

The General Assembly responded to the Governor's executive order by passing House Joint Resolution 1011 and Senate Joint Resolution 28 during the 1980 session. House Joint Resolution 1011 contended that the Governor exceeded his statutory and constitutional authority by issuing his executive order on the policies and urged the Governor to rescind this order. Senate Joint Resolution 28 directed the Committee on Legal Services to retain legal counsel to bring a civil action on behalf of the Fifty-second General Assembly to disclose and determine the legal effects of the executive order on the Human Settlement Policies and to determine the constitutional and statutory validity of that order. As of this date, the Governor has not rescinded his order, but the Committee on Legal Services has agreed to hire counsel to advise them on the possibility of a civil action.

The ten Human Settlement Policies are as follows:

1. Assist communities with the greatest needs to achieve minimum standards of health and safety.

2. Assist regional support centers in maintaining regional service levels appropriate to their trade areas.
3. Encourage accommodation of anticipated growth in communities which evidence the following:
  - a. financial capability to accommodate growth;
  - b. strategies to provide adequate housing for the new population;
  - c. an ongoing planning process with adopted plans and regulations to guide development;
  - d. status as an incorporated municipality;
  - e. identification as a growth center in an adopted regional plan;
  - f. a willingness and commitment to share the costs of such growth.
4. Support the following economic opportunities:
  - a. substantial off-season activity in communities with seasonal economic peaks;
  - b. a mixed resource base and multiple markets in areas dependent upon a single industry;
  - c. the hiring of locally unemployed and underemployed in areas needing job opportunities.
5. Support proposals that make significant contributions to energy conservation or appropriate alternative energy technologies.
6. Discourage development that would:
  - a. jeopardize state and federal air quality standards;
  - b. jeopardize state and federal water quality standards;
  - c. be endangered by natural or manmade hazards to safety;
  - d. conflict with the extraction of mineral resources;
  - e. jeopardize significant wildlife habitats;
  - f. endanger special heritage sites: scenic, historic, archaeologic, and natural areas;



- g. impair water resources in critical watershed and ground water recharge areas;
  - h. convert to other uses prime, unique, or other agricultural lands of statewide or local importance.
7. Foster the following patterns of development:
- a. clustered, compact development;
  - b. development within existing communities;
  - c. development contiguous to built-up communities;
  - d. patterns which conserve energy and maximize the use of existing infrastructure.
8. Avoid the following patterns of development:
- a. diffused, low density development;
  - b. strip or corridor development;
  - c. leapfrog development.
9. Encourage an equitable distribution of growth's burdens and benefits among all affected persons and governmental jurisdictions.
10. Discourage rates of population growth which would cause socioeconomic and public fiscal disruption.

Purpose of the policies. At the first meeting conducted by the committee, the executive director of the Department of Local Affairs stated that the Human Settlement Policies were formulated because of the lack of criteria for deciding how certain limited state and federal funds are to be allocated. In many instances, the number of dollars requested exceed the number of dollars available for distribution. The executive director contended that in such cases there is often insufficient criteria to make decisions regarding which applications should be funded. The executive director is of the opinion that the Human Settlement Policies provide criteria to fill this void. The policies ensure that the requests which are granted are carefully reviewed and approved on the basis of specific guidelines rather than simply granted on the basis of bureaucratic whim. In short, the executive director believes that the policies provide an invaluable management tool for making day-to-day administrative decisions on the allocation of scarce financial resources.

Utilization of the policies. It is appropriate at this point to describe how the position of the Department of Local Affairs relates in practice to the utilization of the Human Settlement Policies. The committee was informed that the policies provide additional

criteria which can be used to review applications for certain state and federal funds which are circulated through the A-95 review process at the state level. According to representatives of the Department of Local Affairs, the state funds which are affected are those funds which are administered by their department (water projects funded by the state may be included in the future). In regards to federal funds, the Human Settlement Policies may be used in evaluating any application for such funds if the A-95 reviewing agency(s) feels the policies are relevant. The policies may also be used in A-95 reviews of federal subdivision applications submitted by developers desiring federal mortgage financing and in certain special A-95 reviews, such as assessments of environmental impact statements.

The "A-95" review process is a system which has been established for reviewing and commenting on the items mentioned above, as well as on applications for certain federal licenses and permits, proposals for the use of federal lands, and proposed state plans. Title IV of the Intergovernmental Cooperation Act of 1968 provides the broad policy base upon which the A-95 review system was built. Section 401 (c) of the act states that "...to the maximum extent possible, consistent with national objectives, all federal aid for development purposes shall be consistent with and further the objectives of state, regional and local comprehensive planning." To ensure that federally assisted projects are consistent with state and local plans and programs, Title IV encouraged the creation of state and regional clearinghouses which would coordinate comments by state and local agencies on applications for federal assistance. In 1969 the mechanics of how such clearinghouses should operate were set forth in the federal Office of Management and Budget's Circular No. A-95 (from whence the process derived its name).

Colorado's State Clearinghouse is a separate section located in the Department of Local Affairs' Division of Planning. Proposals are submitted to the State Clearinghouse which in turn circulates the proposals to the appropriate state agencies. Approximately thirty days later, the State Clearinghouse collects the comments from state agencies, develops an overall state recommendation based on the comments received, and forwards the entire response to the applicant and the state or federal decision making agency. The Department of Local Affairs asserted that the policies are used only in the formulation of comments and overall recommendations on certain proposals undergoing this state level A-95 review. It does not appear that the regional clearinghouses and local agencies are using the Human Settlement Policies in their A-95 reviews and recommendations.

From the period of August 1978 to June 1980, an estimated 2247 proposals were circulated through the A-95 process at the state level. Of this number, approximately 2200 received overall positive recommendations while an estimated forty-seven proposals received overall negative recommendations. Approximately thirty-one of the forty-seven negative recommendations were based in whole or in part on comments relating to the Human Settlement Policies (HSP). A breakdown of the status of these thirty-one proposals is as follows:

A-95 REVIEW PROCESS  
August 1978 to June 1980

31 Negative Recommendations  
Based Solely or Partially on HSP

|                 |    |
|-----------------|----|
| Funded .....    | 7  |
| Not Funded .... | 16 |
| Pending .....   | 7  |
| Withdrawn ..... | 1  |

19 Negative Rec.  
Based Solely on HSP

|                |    |
|----------------|----|
| Funded .....   | 4  |
| Not Funded ... | 12 |
| Pending .....  | 2  |
| Withdrawn .... | 1  |

12 Negative Rec.  
Based In Part on HSP

|                |   |
|----------------|---|
| Funded .....   | 3 |
| Not Funded ... | 4 |
| Pending .....  | 5 |

In addition to the thirty-one proposals noted above, two other proposals received negative recommendations based entirely on the Human Settlement Policies. These two proposals were not subjected to an official A-95 review, but were in the form of comments made by the Division of Planning to state agencies. In one of these cases the project was funded. The other proposal was for site approval of a sewer plant near Montrose. Legal advice indicated that the Human Settlement Policies could not be used as criteria in this situation and consequently the Division of Planning formally withdrew its comments.

Committee goals. As mentioned earlier, it is the position of the Department of Local Affairs that the Human Settlement Policies are needed as an additional standard for assessing the merits of certain proposals circulated through this A-95 review system. Representatives of the department asserted that, in cases where fund requests exceed the available funds and where specific decision making criteria is lacking, A-95 comments based on the Human Settlement Policies would enable program administrators to determine which applications should be funded. However, the committee noted that many of the state agencies specified in the Human Settlement Policies' Draft Implementation Plan would probably not be involved in making the funding decisions alluded to by the Department of Local Affairs. In view of this concern and the contention that there is insufficient decision making criteria, the committee set out to accomplish the following goals:

- solicit the views of interested parties regarding the Human Settlement Policies;
- ascertain how the policies are actually being used by state agencies; and
- determine if a lack of decision making criteria exists.

All three of these goals were accomplished and the results are specified below.

#### Views of Interested Parties

In regards to the first goal, the positions of Colorado Counties, Inc., the Special District Association, the Colorado Municipal League, the American Planning Association, and the Colorado Land Use Commission were presented to the committee. In addition, a letter was sent to each board of county commissioners asking for their opinion on the policies. Several responses resulted from that inquiry.

Colorado Counties, Inc. opposes the implementation of the policies for two major reasons. First, the organization has adopted the position that the policies are an encroachment on legislative powers and local land use authority. Secondly, it contends that the Colorado General Assembly has enacted legislation which provides adequate means for the state to accommodate growth. It appears to this organization that the issuance of the policies implies that there is inadequate planning for growth in Colorado. If there are such inadequacies, Colorado Counties insists that such a void should be addressed by legislation, rather than by executive order.

Opposition to the policies was also registered by the Special District Association. The association's main objections to the policies are that they were formulated and adopted without input from special districts and that state policy should be established by the General Assembly and not by an executive order signed by the Governor.

The Colorado Municipal League indicated its qualified support of the Human Settlement Policies, but withheld any final judgment pending the policies' full implementation. The league offers its general support of the policies because: written policies on the dispensing of state and federal funds apprise local officials of how proposed projects will be judged and eliminate politicized decisions; the policies represent a rational approach to state decision making since they help allocate scarce resources to beneficial projects, reinforce existing communities, and discourage urban sprawl; and the Human Settlement Policies are generally consistent with local land use policies.

The committee received written responses from two boards of county commissioners. Crowley County indicated its support of the concept of the Human Settlement Policies, but suggested certain modifications. It recommends that more emphasis be placed on rewarding those communities which have taken positive actions regarding energy and water conservation while eliminating the criterion which gives high priority to public investment in regional support centers.

El Paso County, on the other hand, voiced its total opposition to the policies. Their basic objection is that the policies provide

land use controls which are rightfully the prerogative of local government. The El Paso Board of County Commissioners perceive the Human Settlement Policies to be an unnecessary intrusion into an area adequately controlled by local land use policies. Furthermore, they contend that local governments and councils of governments are capable of providing state agencies with enough information and advice to satisfy decision making needs. Finally, El Paso County doubts whether the absence of such a state policy in the past caused any problems. They contend that each state agency had developed procedures and priorities for application reviews which were uniquely suited to the agency's own functions and objectives.

In addition to the written responses from county boards, the committee heard testimony from two county commissioners speaking on their own behalf. Jim Martin, county commissioner of Jefferson County, stated that the Human Settlement Policies were part of an attempt by the state to take over land use decisions. He believes that Jefferson County and other counties have adequate planning staffs and extensive land use regulations which preclude any need for the policies. Carl Winkler, county commissioner of Douglas County, also spoke in opposition to the policies. Mr. Winkler expressed his concern that although the Human Settlement Policies were initially presented to the counties as an aid to enhancing community safety and welfare, the policies have been used to deny funds for projects which are safe and clearly promote the welfare of the community. Furthermore, the policies are in conflict with the fundamental right of allowing people to live where they want.

The committee also received opinions from two organizations which do not represent local government. The American Planning Association supports the Human Settlement Policies primarily because the policies provide specific standards upon which rational decisions can be made on the allocation of scarce financial resources. Such standards therefore decrease the chances of haphazard or arbitrary decision making. The American Planning Association support is also based on its belief that the policies:

- provide ground rules which allow local governments to determine in advance whether their proposed project will be funded;
- encourage long range comprehensive planning for growth on the part of local government; and
- ensure that a project which receives state funds is consistent with the public interest from a statewide perspective.

The Colorado Land Use Commission concurs with the position of the American Planning Association. Like the association, it believes that the Human Settlement Policies provide a more rational basis for administrative decision making. In addition, the commission asserts that the policies only represent a synthesis of legislative declarations and statutes which have already been passed by the General Assembly.

## Implementation by State Agencies

In order to fulfill the remaining goals of the committee, an inquiry was sent to each of the thirty state agencies noted in the Human Settlement Policies' Draft Implementation Plan. The purpose of this inquiry was twofold: to determine how the Human Settlement Policies are being used by each agency; and to ascertain whether the policies are necessary for any operations performed by each agency questioned. Written responses were received from all of the agencies involved, and representatives from most of the agencies also appeared before the committee. The major points of each agency's response are highlighted below.

Department of Agriculture. The department has two programs, the Conversion of Agricultural Land study and the Colorado Gasohol Promotion Committee, which have goals that parallel Human Settlement Policies 5 and 6h, respectively. However, the department has not applied the policies for decision making purposes.

Civil Rights Division. The Human Settlement Policies have been taken into consideration in the following actions by the division:

- establishing regional offices;
- assisting the Statewide Housing Network;
- supporting certain housing legislation;
- participating in conferences on exclusionary land use and housing for low/moderate income families;
- initiating a project on housing discrimination in the Denver area;
- implementing a survey on housing choices by minorities and non-minorities in Denver;
- applying for federal housing and urban development funds to develop social indicators for various cities and planning regions in Colorado; and
- participating in community housing resource boards.

In addition, the division will apply the policies in the future to those proposals it reviews through the A-95 process.

Division of Commerce and Development. The division uses Human Settlement Policies 2, 4, 9 and 10 when commenting on environmental impact statements (rarely done) and applications for certain state and federal funds. Two out of the seventeen criteria presently used in such reviews relate to these policies. Prior to the implementation of the policies, such reviews were hardly ever conducted. In those rare instances when reviews were made, the division did not use criteria as

such, but rather brought together the interested parties to work out any differences or problems.

Department of Corrections. The only relevance the policies would have to this department would be in deciding where to locate a new correctional facility. However, the primary criteria for any such decision would be the site's proximity to adequate services. This is a standard set forth by the Commission on Accreditation for Corrections.

Regarding the siting of a new facility, the department is also concerned about fostering an unnecessary and unwise dependence by the communities of Canon City and Buena Vista on a single employer. This concern relates to the policies' goal of diversification of a community's labor force and is compatible with the department's accreditation standards. Consequently, the department has proposed a site selection policy of looking for new sites located outside of Canon City and Buena Vista.

Division of Criminal Justice. The policies have not been applied in the past, and probably are not applicable in the future.

Division of Disaster Emergency Services. The division does not use the policies per se and such policies are not necessary for division actions. Any recommendations which the division makes are based on criteria set forth in the Colorado Disaster Act. Policies 1 and 6c, however, do parallel the goals of said criteria.

Department of Education. The department has not utilized the Human Settlement Policies, nor have such policies been a factor in local school district decisions regarding state and federal monies.

Office of Energy Conservation. Senate Bill 131 (1980 session) specifically prohibits the Office of Energy Conservation from implementing the Human Settlement Policies. Prior to this prohibition, the policies were not used per se by the office to determine program structure or to make decisions regarding the allocation of funds. The office has carried out programs in compliance with various federal mandates, the Governor's executive order creating the office, and Senate Bill 131. These three items generally incorporate the spirit of policy 5.

Colorado Geological Survey. The Human Settlement Policies which pertain to the Colorado Geological Survey's decisions and actions are related to and based on existing statutes. The survey bases its decisions and actions on those statutes and the physical and geological situation. The policies are not necessary for the survey to complete its tasks, but do put priorities in perspective, that is, the policies bring together in one document priorities that are scattered throughout the statutes.

Department of Health. No decisions or actions, either positive or negative, have been specifically dictated by the Human Settlement

Policies. Although certain departmental actions may be in general concert with the intent of the policies, decisions made by the Health Department are governed by state statute and the regulations promulgated thereunder.

Note: The Health Department response was made on behalf of the five divisions under its jurisdiction which were specified in the Draft Implementation Plan.

Department of Highways. Federal laws and regulations, state laws and plans, and State Highway Commission policies address all the concerns covered by the Human Settlement Policies. The Human Settlement Policies have no effect on the department's activities and are not applied to any decisions.

Division of Housing. No negative decisions or actions have ever been taken based on noncompliance with the Human Settlement Policies. However, beginning with this fiscal year, the requests for state housing grants will exceed the available funds. In this situation, the policies will provide criteria which will enable the division to decide which applications will be funded.

Division of Impact Assistance. Because of the newness of the impact assistance funds, the division did not make funding decisions prior to the establishment of the Human Settlement Policies. As part of the criteria now utilized, the policies are listed and may be used where possible in decisions regarding the allocation of those funds.

Department of Institutions. The only decisions and actions in this department which would involve the Human Settlement Policies would be the siting of newly constructed facilities for youth services and mental health. To date, the policies have not been used for this purpose. In the past such decisions have been based on the needs of clients, the programs involved, and the availability of land and existing facilities. The old criteria were not inadequate, but the policies bring a sharper and more consistent focus and direction in those areas of growth and development for which the Governor's administration is responsible. It should be noted that funding for such facilities would be through an executive budget request and subsequent legislative determination.

Board of Land Commissioners. The policies are not used by the Land Board.

Land Use Commission. Existing statutory criteria and the Land Use Commission's rules and regulations are adequate guidelines for fulfilling the commission's responsibilities of monitoring subdivision activity and invoking its temporary emergency powers. The policies are therefore not utilized in those two areas. As regards the commission's duties regarding the designation of matters of state interest (House Bill 1041, 1974 session), the commission feels that the policies clarify and synthesize existing criteria. As a result, the commission uses the policies as a tool for measuring the effectiveness of



local controls and for suggesting certain changes or modifications to such controls. The policies also provide guidelines which enable local governments to decide what actions they could take to avoid intervention by the state in the form of a request to designate a matter to be of state interest. For instance, if local governments take actions in accordance with the policies, the commission would probably decide that such state intervention is unnecessary.

Office of Manpower Planning and Development. The Human Settlement Policies are not relevant to this agency's operations. This office handles only federal Comprehensive Employment and Training Act funds. The allocation of such funds is determined by criteria provided by federal laws and regulations and by the Colorado Employment and Training Council.

Division of Parks and Outdoor Recreation. The division reviews all applications for Federal Land and Water Conservation Fund grants. Forty to fifty criteria for such a review have been developed over the years. One of those criteria now asks if the project is compatible with the Human Settlement Policies.

Division of Planning. The Human Settlement Policies are used by the division in its review of local government master plans, Housing and Urban Development (HUD) "701" applications, and A-95 proposals. In regards to reviewing local government master plans, the policies provide more specific guidelines to general statutory mandates and also provide local governments with a means of predicting whether certain proposals contained in their plan will be funded. As for their use in the HUD 701 review, the policies clarify HUD objectives and are used to set priorities among the applications for funds. Concerning the A-95 review, the policies ensure more consistent comments both within the division and from diverse governmental agencies because the policies consolidate numerous state and local plans and policies into a single document.

Office of State Planning and Budgeting. This office has not used the Human Settlement Policies itself, but has asked executive departments to take the policies into consideration when formulating their budget requests. The office may use the policies if they are involved in master plans, and will use the policies in its capital construction recommendations.

Public Utilities Commission. The public utility laws govern the activities of the commission. The policies have not been used in the past and probably will not be used in the future.

Department of Social Services. The Human Settlement Policies have no effect on department activities and are not taken into consideration.

State Buildings Division. This division administers Long Bill appropriations for capital construction in accordance with statutory provisions. The Human Settlement Policies are not used.

State Soil Conservation Board. The board has not used the Human Settlement Policies.

Water Conservation Board. The board's criteria for approving water projects has always largely followed those embodied in the Human Settlement Policies. Thus, there is no real difference between the present evaluation criteria and the criteria which the board has used in the past.

Division of Wildlife. The division does not use the Human Settlement Policies. Division actions are based on existing statutes and legislative mandates.

Summary. The table on the following page provides a synopsis of the agency responses outlined in this memorandum. The table notes whether the agency indicated that it:

- has never used the Human Settlement Policies (column 1);
- does not use the policies as such, but such policies are consistent with some existing agency charges or goals (column 2);
- presently uses the policies (column 3);
- does not use the policies presently, but may in the future (column 4).

It is important to note that these specific questions were not actually asked of the state agencies. What the table shows are the agencies' positions on certain points, if they indicated any position at all.

#### Committee Recommendations

After receiving the testimony of the state agencies and interested parties, the majority of committee members agreed on the following points. First, the issuance of the Governor's executive order regarding the Human Settlement Policies was an infringement on powers reserved for the legislative branch. The Governor's powers pertain to executing laws passed by the General Assembly. As such, his powers are solely administrative and not policy-making in nature. Only the General Assembly can set forth statewide policies. Secondly, the reason given for the implementation of the policies, namely the lack of criteria for decision making, does not appear to be valid. The committee could not find a specific instance where additional criteria was needed in order to make funding decisions. Furthermore, most of the representatives of local government appeared to be satisfied with the prior procedures used to determine the allocation of funds.

# Human Settlement Policies Implementation

| <u>Agency</u>                      | (1)                           | (2)<br>HSP Not Used Per<br>Se - HSP Consis-<br>tent with Some<br>Charges or Goals | (3)                           | (4)                              |
|------------------------------------|-------------------------------|---|-------------------------------|----------------------------------|
|                                    | <u>Has Never<br/>Used HSP</u> |   | <u>Presently<br/>Uses HSP</u> | <u>May Use HSP<br/>in Future</u> |
| <u>Agriculture</u>                 |                               | x   |                               |                                  |
| <u>Civil Rights</u>                |                               |   | x                             |                                  |
| <u>Commerce and Development</u>    |                               |   | x                             |                                  |
| <u>Corrections</u>                 |                               | x   |                               | x                                |
| <u>Criminal Justice</u>            | x                             |   |                               |                                  |
| <u>Disaster Emergency Services</u> |                               | x   |                               |                                  |
| <u>Education</u>                   | x                             |   |                               |                                  |
| <u>Energy Conservation</u>         |                               | x   |                               |                                  |
| <u>Geological Survey</u>           |                               | x   |                               |                                  |
| <u>Health</u>                      |                               | x   |                               |                                  |
| <u>Highways</u>                    |                               | x   |                               |                                  |
| <u>Housing</u>                     | x                             |   |                               | x                                |
| <u>Impact Assistance</u>           |                               |   | x                             |                                  |
| <u>Institutions</u>                | x                             |   |                               | x                                |
| <u>Land Board</u>                  | x                             |   |                               |                                  |
| <u>Land Use Commission</u>         |                               |   | x                             |                                  |
| <u>Manpower Planning</u>           | x                             |   |                               |                                  |
| <u>Parks</u>                       |                               |   | x                             |                                  |
| <u>Planning</u>                    |                               |   | x                             |                                  |
| <u>Planning and Budgeting</u>      | x                             |   |                               | x                                |
| <u>Public Utilities Commission</u> | x                             |   |                               |                                  |
| <u>Social Services</u>             | x                             |   |                               |                                  |
| <u>State Buildings</u>             | x                             |   |                               |                                  |
| <u>Soil Conservation Board</u>     | x                             |   |                               |                                  |
| <u>Water Conservation Board</u>    |                               | x   |                               |                                  |
| <u>Wildlife</u>                    | x                             |   |                               |                                  |

The third point agreed to by the committee is that the policies by their very nature infringe on local control over land use planning. The General Assembly has stipulated in Section 24-65-104 (1) (b), Colorado Revised Statutes 1973, that the decision making authority as to the character and use of land shall be at the lowest possible level of government consistent with the purposes of the Land Use Act. Yet, certain funding decisions which relate to land use issues could be made on the basis of the Human Settlement Policies which were promulgated at the executive level. The committee's belief that the policies interfere with local land use controls is also fostered by the revelation that certain state agencies appear to be using the policies for assessing matters which relate more to land use than to simply prioritizing competing applications for funds.

In view of these findings, and additional problems brought to the committee's attention during the interim, the committee recommends five bills.

Planning responsibilities -- Bill 3. During committee discussions on how the Department of Local Affairs' Division of Planning and the Office of State Planning and Budgeting utilize the Human Settlement Policies, it appeared to the committee that there was a significant overlap in the statutory provisions regarding the planning roles of both agencies. The committee recommends Bill 3 as a means to clearly delineate the respective planning roles of each agency. The bill specifies that the Division of Planning in the Department of Local Affairs is responsible for local and regional planning efforts while the Division of State Planning in the Office of State Planning and Budgeting is responsible for state-level, interstate, and federal-state planning efforts.

State clearinghouse -- Bill 4. As mentioned earlier, the A-95 review process is coordinated through the State Clearinghouse in the Department of Local Affairs. The State Clearinghouse was originally established in 1969 by means of a letter from Governor John A. Love and was operated by the State Planning Coordinator in the Governor's Office. However, in August of 1971 the State Clearinghouse functions were transferred to the Division of Planning in the Department of Local Affairs. The committee believes that the State Clearinghouse should continue to operate in the Department of Local Affairs but that its authority should be clearly defined in statute. Furthermore, the committee believes that the comments received on proposed federal projects should be limited to the subject matter enumerated in the A-95 circular and should not be based on any other criteria or policies. Bill 4 satisfies both of these objectives.

Allocation of funds -- Bill 5. Bill 5 will establish the following system for allocating state funds or property to local units of government. If the applicant meets all statutory requirements for eligibility and complies with local regulations, ordinances and resolutions, the application must be approved or denied solely on the basis of selection criteria set forth by statute. If the applicant meets all statutory and local eligibility requirements but the

requests for state funds exceed the funds available and no statutory selection criteria exists for determining which applications should be funded, the funds will be allocated on a first-come, first-served basis. This approach ensures that selection criteria established by the General Assembly will be the sole criteria used when it is available. In those instances where statutory selection criteria is not available, the committee believes that the most equitable method of distributing such funds is on a first-come, first-served basis.

Committee support for this bill is also based on the idea that restricting fund allocations to applicants meeting statutory and local eligibility requirements will help reduce each group of competing applicants to those which are most qualified. From that point, statutory selection criteria or the first-come, first-served approach, whichever is applicable, will determine which requests will be granted.

Governor's authority -- Bill 6. Bill 6 is a reaction to the committee's position that the General Assembly is responsible for instituting statewide policies while the Governor's policy-making authority is limited to instituting policies which are necessary for executing the laws. This bill inserts language into the statutory provisions regarding the Governor's authority in this area. The new language stipulates that the Governor is responsible for formulating and administering the "internal" policies of the executive branch and for "... applying public policy as fixed and determined by the General Assembly." The bill also states that "internal" policies relate solely to the management and administration of the executive branch and do not extend in scope or effect to establish any public or statewide policies.

License criteria -- Bill 7. In accordance with the committee's concern that statutory criteria should be the sole criteria used in administrative decision making, the committee recommends Bill 7. This bill provides that the granting of state licenses, certificates and permits should be determined solely on the basis of the criteria, terms, and purposes set forth in statute, or the regulations promulgated thereunder.

BILL 3

A BILL FOR AN ACT

1 CONCERNING THE DELINEATION OF PLANNING RESPONSIBILITIES IN STATE  
2 GOVERNMENT.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Delineates the respective planning roles of the division of planning in the department of local affairs and the division of state planning in the office of state planning and budgeting. Delegates state responsibility for local and regional planning to the division of planning. Delegates to the division of state planning responsibility for state-level planning activities and for participating in interstate planning and federal-state planning programs.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-32-202 (3)(a) and (3)(c), Colorado Revised  
5 Statutes 1973, are amended to read:

6 24-32-202. Division of planning - creation.

7 (3) (a) Exchange reports and data which relate to **state** LOCAL  
8 AND REGIONAL planning with other departments, institutions, and  
9 agencies of the state and on a mutually agreed basis with towns,  
10 cities, cities and counties, counties, and other local agencies

1 and instrumentalities;

2 (c) Advise the governor and the general assembly on all  
3 matters of statewide LOCAL AND REGIONAL planning, and consult  
4 with other offices of state government with respect to matters of  
5 LOCAL AND REGIONAL planning affecting the duties of their  
6 offices; recommend to the governor and the general assembly any  
7 proposals for legislation affecting local OR regional or--state  
8 planning; and

9 SECTION 2. 24-32-203, Colorado Revised Statutes 1973, is  
10 REPEALED AND REENACTED, WITH AMENDMENTS, to read:

11 24-32-203. Duties of the division of planning. (1) The  
12 division of planning shall:

13 (a) Provide planning assistance upon request to any town,  
14 city, city and county, county, regional area, or group of  
15 adjacent communities having common or related planning problems;  
16 and, whenever such assistance includes the rendering of technical  
17 services, such services may be rendered without charge or, upon  
18 advance agreement, shall be rendered with reimbursement;

19 (b) Provide information to and cooperate with the general  
20 assembly or its committees concerned with studies relevant to  
21 local and regional planning;

22 (c) Supply to the public and to officials of state  
23 departments and local agencies available information on local and  
24 regional planning problems and community development;

25 (d) Accept and receive grants and services relevant to  
26 local and regional planning from the federal government, other

1 state agencies, local governments, and private and civic sources.

2 SECTION 3. 24-37-202 (1), Colorado Revised Statutes 1973,  
3 as amended, is amended BY THE ADDITION OF THE FOLLOWING NEW  
4 PARAGRAPHS to read:

5 24-37-202. Division of state planning -  
6 responsibilities. (1) (f) Participate in comprehensive  
7 interstate planning and other activities related thereto;

8 (g) Make studies and inquiries relevant to state planning  
9 of the resources of the state and of the problems of agriculture,  
10 industry, and commerce, as well as population and urban growth,  
11 local government, and related matters affecting the development  
12 of the state;

13 (h) Prepare, and from time to time revise, an inventory, in  
14 collaboration with the appropriate state and federal agencies, of  
15 the public and private natural resources, of major public and  
16 private works, and of other facilities and information which are  
17 deemed of importance in planning for the development of the  
18 state;

19 (i) Supply to the public available information developed  
20 pursuant to this subsection (1);

21 (j) Accept and receive grants and services relevant to  
22 state planning from the federal government, other state agencies,  
23 local governments, and private and civic sources;

24 (k) Act as reviewing authority or otherwise provide  
25 cooperative services under any federal-state planning programs.

26 SECTION 4. Repeal. 24-32-201 and 24-32-206, Colorado



1 Revised Statutes 1973, are repealed.

2 SECTION 5. Effective date. This act shall take effect July  
3 1, 1981.

4 SECTION 6. Safety clause. The general assembly hereby  
5 finds, determines, and declares that this act is necessary for  
6 the immediate preservation of the public peace, health, and  
7 safety.

BILL 4

A BILL FOR AN ACT

1 CONCERNING THE STATE CLEARINGHOUSE.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Designates the department of local affairs as the state clearinghouse for the federal A-95 review process relating to applications for federal assistance.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. Article 32 of title 24, Colorado Revised  
4 Statutes 1973, as amended, is amended BY THE ADDITION OF A NEW  
5 PART to read:

6 PART 12

7 STATE CLEARINGHOUSE

8 24-32-1201. Legislative declaration. The provisions of  
9 this part 12 are enacted to establish a state clearinghouse in  
10 accordance with circular number A-95 of the United States office  
11 of management and budget. In order to avoid duplication with  
12 existing duties and functions of state and local governmental

1 agencies and in order to preserve the policy of this state that  
2 the decision-making authority as to the character and use of land  
3 shall be at the lowest possible level of government, it is the  
4 intent of the general assembly that the state clearinghouse shall  
5 be primarily a state central information center for the receipt  
6 and dissemination of federal assistance information and shall not  
7 be a policy-making or planning agency.

8 24-32-1202. Definition. As used in this part 12, unless  
9 the context otherwise requires:

10 (1) "Circular number A-95" means circular number A-95 of  
11 the United States office of management and budget, as published  
12 in the Federal Register of January 13, 1976, and as amended from  
13 time to time.

14 24-32-1203. State clearinghouse designated - duties -  
15 limitations. (1) The department of local affairs is hereby  
16 designated as the state clearinghouse for the state in accordance  
17 with circular number A-95. The executive director of the  
18 department of local affairs shall employ, pursuant to the  
19 provisions of section 13 of article XII of the state  
20 constitution, such officers and employees as he deems necessary  
21 to carry out the provisions of this part 12.

22 (2) (a) The state clearinghouse shall perform the functions  
23 described for state clearinghouses in circular number A-95.

24 (b) Every state agency whose area of responsibility may be  
25 affected by a proposed project involving federal assistance shall  
26 cooperate with the state clearinghouse in the project

1 notification and review system as provided in circular number  
2 A-95.

3 (c) Comments made by the state clearinghouse and affected  
4 state agencies on applications for federal assistance under the  
5 project notification and review system described in circular  
6 number A-95 shall be limited to the subject matter items listed  
7 in section 5 of part I of attachment A of circular number A-95.

8 (d) In the absence of any provision of law authorizing  
9 centralized state-wide comprehensive planning, including land use  
10 or growth policies, any reference in circular number A-95 to  
11 state comprehensive plans or planning, state priorities or  
12 objectives, or the equivalent shall be construed by the state  
13 clearinghouse and affected state agencies to refer to the  
14 aggregate of local and regional plans and policies established  
15 pursuant to statute and the policies, purposes, and objectives  
16 expressed in the laws of the state.

17 SECTION 2. Effective date. This act shall take effect July  
18 1, 1981.

19 SECTION 3. Safety clause. The general assembly hereby  
20 finds, determines, and declares that this act is necessary for  
21 the immediate preservation of the public peace, health, and  
22 safety.

BILL 5

A BILL FOR AN ACT

1 CONCERNING THE CRITERIA USED BY STATE AGENCIES IN AWARDING  
2 ASSISTANCE TO UNITS OF LOCAL GOVERNMENT.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides that state agencies administering programs of assistance to units of local government shall award assistance on a first-come, first-served basis if the applicable statute fails to specify other selection criteria.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. Title 29, Colorado Revised Statutes 1973, 1977  
5 Repl. Vol., as amended, is amended BY THE ADDITION OF A NEW  
6 ARTICLE to read:

7 ARTICLE 3.5

8 State Grants to Local Governments

9 29-3.5-101. Legislative declaration. The general assembly  
10 finds that various state agencies are authorized by law to  
11 administer programs involving state assistance to units of local  
12 government. The general assembly further finds that under the

1 state constitution the general assembly is the legislative and  
2 policy-making branch of state government and that such  
3 constitutional principle must be faithfully preserved. The  
4 provisions of this article are therefore enacted for the purpose  
5 of insuring that state agencies furnishing assistance to units of  
6 local government be guided solely by legislatively established  
7 policies and purposes and for the purpose of providing such  
8 agencies with a decision-making method when other criteria may be  
9 lacking.

10 29-3.5-102. Definitions. As used in this article, unless  
11 the context otherwise requires:

12 (1) "Eligible applicant" means an applicant under a local  
13 government assistance program which meets all statutory  
14 requirements for eligibility and which complies with all  
15 applicable local regulations, ordinances, and resolutions,  
16 including but not limited to, applicable zoning, subdivision, and  
17 planned unit development regulations, ordinances, and  
18 resolutions, and applicable county, municipal, and regional  
19 master plans, if any.

20 (2) "Local government assistance program" means any program  
21 under which a state agency furnishes a grant or loan of state  
22 money, or state property in lieu of money, to units of local  
23 government for the purpose of financing or otherwise assisting in  
24 any local or regional construction or planning project.

25 (3) "State agency" means any board, bureau, commission,  
26 department, institution, division, section, or officer of the

1 state, except those in the legislative or judicial branches and  
2 except state educational institutions administered pursuant to  
3 title 23 (except articles 8 and 9, parts 2 and 3 of article 21,  
4 and parts 2 to 4 of article 30), C.R.S. 1973, and part 6 of  
5 article 32 of title 24, C.R.S. 1973.

6 (4) "Unit of local government" means a county, city and  
7 county, city, town, service authority, school district, local  
8 improvement district, law enforcement authority, water,  
9 sanitation, fire protection, metropolitan, irrigation, drainage,  
10 or other special district, or any other kind of municipal,  
11 quasi-municipal, or public corporation organized pursuant to law.

12 29-3.5-103. Selection criteria. (1) Every state agency  
13 which administers a local government assistance program shall  
14 approve or deny every application from an eligible applicant  
15 under such program solely on the basis of criteria established by  
16 statute.

17 (2) Whenever the total level of assistance requested by all  
18 eligible applicants exceeds the resources available to the state  
19 agency for such program and no other selection criteria is  
20 provided by statute, the agency shall use as its sole selection  
21 criteria the order in which completed applications were timely  
22 filed with the agency. An application is complete for the  
23 purposes of this subsection (2) when reasonably complete  
24 information is provided to the agency by an eligible applicant on  
25 all items required by the agency, even if the applicant  
26 subsequently provides additional information by way of

1 supplementation, clarification, or updating.

2       SECTION 2. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary for  
4 the immediate preservation of the public peace, health, and  
5 safety.



BILL 6

A BILL FOR AN ACT

1 CONCERNING THE GOVERNOR'S POLICY-MAKING AUTHORITY.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Specifies that the governor's policy-making authority is limited to internal administration of the executive branch to secure efficient and faithful execution of the laws.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 24-1-104, Colorado Revised Statutes 1973, is  
4 amended to read:

5 24-1-104. Policy-making authority and administrative powers  
6 of governor - delegation. The governor, in accordance with  
7 section 2 of article IV of the state constitution, shall be the  
8 chief executive officer of the state. Subject to the  
9 constitution and laws of this state, the governor shall be  
10 responsible for formulating and administering the INTERNAL  
11 policies of the executive branch of the state government  
12 NECESSARY TO SECURE THE EFFICIENT AND FAITHFUL EXECUTION OF THE

1 LAWS AND APPLYING PUBLIC POLICY AS FIXED AND DETERMINED BY THE  
2 GENERAL ASSEMBLY. INTERNAL POLICIES SHALL RELATE SOLELY TO THE  
3 MANAGEMENT AND ADMINISTRATION OF THE EXECUTIVE BRANCH AND SHALL  
4 NOT EXTEND IN SCOPE OR EFFECT TO ESTABLISH ANY PUBLIC OR  
5 STATE-WIDE POLICIES. In the execution of these INTERNAL policies,  
6 the governor has full powers of supervision, approval, direction,  
7 and appointment over all principal departments and the divisions,  
8 sections, and units thereof. Where a conflict arises as to the  
9 administration of the INTERNAL policies of the executive branch  
10 of the state government, such conflict shall be resolved by the  
11 governor, and the decision of the governor shall be final.

12 SECTION 2. Safety clause. The general assembly hereby  
13 finds, determines, and declares that this act is necessary for  
14 the immediate preservation of the public peace, health, and  
15 safety.

BILL 7

A BILL FOR AN ACT

1 CONCERNING THE CRITERIA USED BY STATE AGENCIES IN CONSIDERING  
2 APPLICATIONS FOR LICENSES.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Specifies that the decisions of state agencies respecting applications for licenses and permits shall be based solely upon the stated criteria, terms, and purposes of the applicable statute.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 24-4-104 (2), Colorado Revised Statutes 1973, is  
5 amended to read:

6 24-4-104. Licenses - issuance, suspension or revocation,  
7 renewal. (2) EVERY AGENCY DECISION RESPECTING THE GRANT,  
8 RENEWAL, DENIAL, REVOCATION, SUSPENSION, ANNULMENT, LIMITATION,  
9 OR MODIFICATION OF A LICENSE SHALL BE BASED SOLELY UPON THE  
10 STATED CRITERIA, TERMS, AND PURPOSES OF THE STATUTE, OR  
11 REGULATIONS PROMULGATED THEREUNDER, PURSUANT TO WHICH THE LICENSE  
12 IS ISSUED OR REQUIRED. Terms, conditions, or requirements

1    limiting any license shall be valid only if reasonably necessary  
2    to effectuate the purposes, scope, or stated terms of the statute  
3    pursuant to which the license is issued or required.

4        SECTION 2. Safety clause. The general assembly hereby  
5    finds, determines, and declares that this act is necessary for  
6    the immediate preservation of the public peace, health, and  
7    safety.

**LEGISLATIVE COUNCIL**  
**COMMITTEE ON EDUCATION**

**Members of the Committee**

Rep. Tom Tancredo,  
Chairman  
Sen. Hugh Fowler,  
Vice-Chairman  
Sen. Robert Allshouse  
Sen. Regis Groff  
Sen. Donald Harding  
Sen. Harvey Phelps

Rep. Cliff Dodge  
Rep. Eunice Fine  
Rep. Wayne Knox  
Rep. Leo Lucero  
Rep. Betty Neale  
Rep. Bev Scherling  
Rep. James Shepard

**Council Staff**

Stanley Elofson  
Principal Analyst

Daniel Chapman  
Research Associate

The Committee on Education was directed to undertake "a study of financing public higher education and the options available for consideration by the General Assembly during the next decade". To address this charge, the committee focused on the assessment of quality in higher education in Colorado and possible methods of funding quality institutions of higher education. Several seminar-type meetings were held both at the State Capitol and at college campuses in the metropolitan area. Information, suggestions, and recommendations were received from faculty, students, administrators, and governing board members from both the public and private sectors of Colorado postsecondary education. Testimony was also provided on specific issues, including student fees and student financial assistance.

#### Recommendations to the Committee

These activities resulted in a list of specific recommendations from various sources which addressed the issues of funding for quality and alternative financing mechanisms for higher education. The recommendations for committee inquiry were as follows:

Uniform Student Health Insurance Program. A study of possible cost savings accruing to a statewide program for student health insurance could be initiated. Such study would explore the possibility of creating a state health insurance program to which individual institutions could subscribe. A prepaid health plan similar to that offered by a Health Maintenance Organization is a possibility. The University of Colorado Health Sciences Center is considering such a plan.

Financial Assistance to Private School Students. Inclusion of students at private colleges and universities under state student financial aid was recommended.

Bonding Authority -- Capital Construction and Controlled Maintenance. Create an alternative method of financing capital construction and major maintenance for use by both public and private institutions of higher education. A bonding mechanism for loans, like the Health Facilities Authority, could be established.

Tax Incentives for Higher Education Investment. Tax incentives to business and private individuals for investments in public and private higher education might be offered.

Energy Incentive Conservation Programs. Permit state-supported institutions to retain a percentage of the dollar savings resulting from energy conservation.

Early Retirement Options/Faculty and Staff. Early retirement programs on a voluntary basis might promote turnover in faculty and staff and encourage the employment of lower salaried, younger persons.

Indirect Cost Recoveries. Indirect cost recoveries should be split between the state and the institutions on a more equitable basis.

Endowed Chairs. The establishment was suggested of permanently endowed chairs for professors based upon a trust fund established in part by the state and in part by private contributions. The interest from this fund would pay for the professor's salary, support staff, and materials.

Targeted Professional Programs. Allow an institution to retain a significant portion of the tuition received from programs set up in certain professional areas. The Executive MBA program at the University of Denver was one example of such a specialized professional program.

Capital Equipment Reserve Fund. Financing new equipment and replacement of obsolete educational materials could be accomplished through a reserve fund, based on each institution's inventory of equipment and its valuation.

Voucher Systems for Higher Education Funding. Create a system of tuition grants to students to replace the current method of direct funding to institutions.

In addition to these specific proposals, a number of general themes were repeated which relate to the discussion of alternative financing mechanisms. Suggestions focused upon such concerns as:

- granting increased administrative flexibility to institutions, perhaps by reducing the number of line items in the budget. The example of Pikes Peak Community College's five line items (education and general resident instruction, instructional support, utilities, ADP operations, and ADP equipment) in the 1980-81 Long Bill was cited in this regard;
- performance incentive programs, such as the Tennessee Performance Incentive Program, which attempts to link funding not only to enrollments, but to performance as well. Under such a plan, institutions attempt to meet negotiated performance goals in order to qualify for extra funds;
- clarification of the goals of higher education at both the system level and institutional levels, perhaps achieved through increased reliance on role and mission statements; and
- better utilization of capital construction and controlled maintenance funds, using private enterprise as a model.

## Activities of the Committee

Six meetings were held during the 1980 interim, three of which were held in seminar-style formats at college campuses. The initial meeting was directed toward providing an informational background on issues relating to higher education finance. Subjects discussed were the public perceptions of Colorado higher education, the history of financing higher education in Colorado during the past decade, and Colorado's status in relation to funding patterns in other states. The use of interstate comparisons was cited as a valuable but extremely complex method of gauging the state's performance in financing higher education.

Following this meeting, the committee next addressed the question "What is quality in higher education and how can quality best be funded?". An all-day seminar was held on the campus of Colorado Women's College at which the question of quality was discussed. Faculty members, students, administrators, college and university presidents, and governing board members from numerous public and private institutions of higher education participated in this seminar. These individuals recounted their ideas as to what constitutes educational quality, and indicated how this might best be achieved at Colorado's colleges and universities. The third meeting was held three weeks later at the Auraria Higher Education Center, at which time selected panelists provided specific suggestions as to how the General Assembly might best facilitate financing educational quality at the program, institutional, and system level. A number of specific recommendations which are addressed in committee recommendations, including endowed professorships, a capital facilities bonding authority, and tax incentives for contributions to higher education were derived from this meeting. These issues are addressed by Bill 8 and Bill 11.

Two topics which effect the overall financing pattern for higher education in the state were considered in the September meeting. The first of these topics was the role of private institutions in Colorado higher education. Panelists representing the private sector discussed how private colleges and universities act to improve the overall quality of Colorado's educational system and supplement the public system by educating thousands of Colorado residents. They also reviewed the needs of these institutions as anticipated for the coming decade. The issues of student financial assistance and aid for capital construction/controlled maintenance were raised and the committee's recommendations on these topics are included in Bill 9 and Bill 11.

Also discussed was the current status of the student loan program. Representatives of the Colorado Commission on Higher Education and the Colorado Guaranteed Student Loan Division outlined current activity in this area, and discussed the impact of recent reductions in state grants and scholarships. The surprisingly large volume of student loan activity being experienced was also discussed, an issue (additional bonding capacity) which is addressed in part by Bill 10. The committee expressed interest in the continued monitoring of activ-



ity in the student financial assistance area.

The committee next spent a half-day at the Colorado School of Mines discussing issues of student fees, their collection, distribution, and management. The use of student fees, which are technically a state cash fund, was seen as important in view of the current trend of financing educational services through user fees. The discussion focused on the inter-institutional variety in both amount and purpose of fees, their collection and management. The future administration and use of student fees, especially with respect to programs to be financed, was of primary importance to the student leaders who attended this meeting.

### Committee Recommendations

Contributions to Institutions of Higher Education: Establishment of Endowed Professorships -- Bill 8. The purpose of Bill 8 is to encourage contributions to institutions of higher education by providing a credit, to be determined by the General Assembly, against the state income tax imposed upon individuals, estates, trusts, and corporations. The credit will apply to charitable contributions made to both public and private institutions of higher education. The committee chose not to recommend a specific tax credit, rather leaving the amount of the credit to the discretion of the legislature. The bill includes a requirement, however, that maximum amounts for the credit be set for individuals and for corporations; these limits have also been left open for consideration by the General Assembly. Institutions which qualify under the provisions of this bill include the non-public four-year colleges and universities and private vocational and proprietary schools, provided that they are not pervasively sectarian, theological institutions, or branch programs of any institution of higher education whose principal campus and facilities are located outside the state.

A second part of the bill stipulates that private gifts and bequests to public institutions of higher education for the establishment of an endowed distinguished professorship may be accepted by the governing board of the institution and that additional funds for this purpose may be appropriated (but do not have to be) by the General Assembly to the governing board of the institution. These funds are to be held in trust separately, and the interest from the trust is to be used exclusively for maintenance of the distinguished professorship. Costs such as professor's salary, support staff, and instructional materials can be paid in this fashion.

This bill is intended to encourage contributions to public and private institutions of higher education, and, in the instance of public institutions, to promote the use of such contributions for permanently endowed professorships. The bill does not obligate the state in any way to provide matching funds for endowed professorships, but provides a mechanism for the acceptance of both public and private funds for this purpose.

Student Financial Assistance -- Bill 9. Eligibility for Colorado student financial assistance would be extended to Colorado resident students of private, nonpervasively sectarian institutions of higher education under Bill 9. The Colorado Commission on Higher Education is directed to determine, by established guidelines, which institutions shall be eligible for participation in the program. Excluded are those institutions which are found to be pervasively sectarian, or to be theological institutions. Branch programs of an institution of higher education whose principal campus and facilities are located outside the state are similarly excluded. As in present law relating only to public institutions, the Commission on Higher Education will administer the program, but actual program disbursements would be handled by the institutions, subject to audit and review. The bill also requires that no participating institution shall decrease the amount of its own funds spent for student aid below the level spent prior to participation in the program.

The Commission on Higher Education, in determining the amount allocated to private institutions, is to consider only that portion of the student's financial need which would have existed were the institution's tuition no greater than the highest in-state tuition rate charged by a comparable state institution. Thus, the share of state student assistance which a Colorado student at a private institution may receive is based on tuition levels at comparable state institutions, not on private tuition, which typically is substantially higher.

The bill will incorporate students in the private sector into the following state funding programs 1/: assistance to Colorado veterans with service after August 5, 1964; aid to dependents of Colorado prisoners of war and military personnel missing in action; aid to dependents of deceased or permanently disabled Colorado national guardsmen, law enforcement officers, and firemen; the Colorado work-study program; the Colorado student loan matching fund; and other grant and scholarship programs such as the Colorado student grants, graduate aid, Colorado scholarships, and athletic awards. It should be noted that aid to dependents of prisoners of war, military personnel missing in action, deceased or permanently disabled national guardsmen, law enforcement officers, or firemen is limited at private institutions to a level not to exceed the average cost of undergraduate instruction for a full-time equivalent student at the University of Colorado at Boulder for the previous year.

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1/ Under present law, students at private institutions are eligible to participate in only the Colorado Student Incentive Grant Program.

Colorado Student Obligation Bond Authority -- Bill 10. Bill 10 raises the statutory maximum limit on Colorado Obligation Bond Authority's outstanding bonds from \$50 million to \$200 million. As of September 30, 1980, the program had guaranteed 19,721 loans totalling \$42,873,454 since its start-up February 15, 1980. A second amendment is technical, authorizing the bonding authority to prepare a budget for the next fiscal year based on the same fiscal year as the federal government, beginning on October 1 and ending on September 30. This change will expedite reporting requirements of the division to the federal government.

The director of the Colorado Guaranteed Student Loan program stated that the division anticipated having \$76 million of loans under guarantee by June, 1981. Inflationary pressures were cited as one reason for the unexpectedly high level of demand for student loans. Additional amendments may need to be made to the statutes governing the loan guarantee program in 1981 to conform the Colorado law to the federal amendments enacted in the Higher Education Reauthorization Act of 1980.

Colorado Postsecondary Educational Facilities Authority Act -- Bill 11. Bill 11, which creates the Colorado Postsecondary Educational Facilities Authority, is an updated version of two previous bills -- Senate Bill 109 (1978 session) and Senate Bill 56 (1979 session). The proposed authority is similar to the presently operating Health Facilities Authority. The state does not pledge its credit on bonds issued by the authority. This bill would establish a central authority through which public and private institutions of higher education may refund or refinance outstanding indebtedness incurred for postsecondary facilities, and through which additional facilities could be financed. The authority is intended to be a political subdivision of the state, not an agency of the state, and as such is deemed an independent body politic and corporate. The authority is responsible for lending money to institutions of postsecondary education, and for authorizing the acquisition, construction, reconstruction, repair, alteration, improvement, extension, ownership, leasing, or disposal of properties to the ends provided in the act.

Key provisions of the bill include the creation of the authority, its board of directors, its organizational structure, and the general powers of the authority. Those are as follows:

Administrative powers. These powers include the authority's perpetual existence and succession as a body politic and corporate, and the ability to adopt and amend by-laws for the regulation of its affairs and the conduct of its business. Provision is made for the authority to sue and be sued, to have and use a seal, and to maintain an office.

Functional powers. These powers include:

- Determination of the location and character of any facility to be financed under the provisions of the

article. The authority is empowered to acquire, construct, reconstruct, renovate, improve, alter, replace, maintain, repair, operate, or lease such facilities. The authority may also enter into contracts for the operation and management of a facility. In addition, the authority may designate a participating institution of higher education as its agent in making the abovementioned determinations or in entering into such contracts.

- The authority is further empowered to lease facilities to a participating institution, and to charge and collect rent on such leases. Provision for renewal of lease or purchase of facilities by the lessee is also included.
- The authority may borrow money and issue bonds, notes, bond anticipation notes, or other obligations, and provide for funding or refunding of same.
- Provision is made for establishment of rules and regulations for the use of facilities, or to designate a participating institution as the agent for establishing such rules and regulations.
- The authority may receive loans, grants, or contributions for construction of facilities from the federal government, the state of Colorado, or other public agencies.
- Power to mortgage facilities and make mortgage loans for the cost of facilities or for refunding outstanding obligations is also provided. The issuance of bonds and the making of loans may be governed by the authority's determination that such financing is in the public interest. This provision also alleviates the financial hardship which might be placed upon a participating institution of higher education.
- The authority is responsible for obtaining insurance for, or guarantees of, payment or repayment of interest or principal from any department or agency of the United States or of the state of Colorado, or from any private company.
- Administrative costs would be apportioned by the authority among the participating institutions. The authority is empowered to make and execute contracts, and to do all things necessary to carry out the act.

Restrictions on the authority's powers include the provision that the authority shall not operate a facility as a business. Public institutions are also restricted in that financing of any facility must be approved by both the Commission on Higher Education and the General Assembly. No change in the planning sequence is contemplated in this bill.

This bill also sets out rules to govern the authority's activities in acquisition of property in issuing bonds, in pledging security of bonds, and in purchasing bonds. Procedures are set for arranging issuance of bonds and trust agreements to secure bonds, as well as for payment of the bonds and for investment of funds. Provision is made for accounting of activities, state audits, reports of expenditures, and an annual report of the authority to the Governor and General Assembly which would entail a complete and detailed operating and financial statement for the fiscal year.

The committee views the bill as a benefit to public institutions in that there will be an alternative for capital construction to the present method of direct budgeting for such projects. The financing method employed by public school districts will become available to higher education. Private institutions can enjoy the benefits of more favorable interest rates and repayment terms for capital construction and controlled maintenance purposes. Building maintenance projects can be undertaken now and paid off with cheaper dollars.

Evaluation of Public Institutions of Higher Education -- a Resolution (Bill 12). The Committee on Education recommends a joint resolution which would urge the Colorado Commission on Higher Education, in cooperation with the governing boards of each institution, to undertake an evaluation of all public institutions of higher education in Colorado. The purpose of such an evaluation would be to match the performance of each institution with criteria of educational quality. The aspects of quality which the committee seeks to measure are: sound infrastructure; competent faculty; motivated students; and a reputation for quality and excellence on campus. The Commission on Higher Education would focus on determining which institutions meet these criteria, which do not, and the reasons for the school's abilities to meet these standards. The resolution states that the commission shall report the findings of this evaluation and their recommendations by January 1, 1983.

The intent of the committee in recommending this resolution is to provide a framework for evaluating institutions which, in the future, may wish to engage in a more flexible budgetary relationship with the General Assembly, as the School of Mines has done since July, 1980.

## BILL 8

### A BILL FOR AN ACT

1 CONCERNING CONTRIBUTIONS TO INSTITUTIONS OF HIGHER EDUCATION, AND  
2 PROVIDING FOR A CREDIT AGAINST THE INCOME TAX BASED UPON  
3 SUCH CONTRIBUTIONS AND FOR THE ESTABLISHMENT OF ENDOWED  
4 PROFESSORSHIPS.

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#### Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides a credit against the income tax imposed upon individuals, estates, trusts, and corporations for charitable contributions made to public and private institutions of higher education in Colorado. Limits the amount of such credit.

Also authorizes governing boards of state institutions of higher education, and nonprofit foundations and similar organizations operated for the benefit of such institutions, to accept gifts and bequests designated for the establishment of an endowed professorship. Provides that the general assembly may make appropriations for the same purpose.

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5 Be it enacted by the General Assembly of the State of Colorado:

6 SECTION 1. 23-5-112, Colorado Revised Statutes 1973, is  
7 amended BY THE ADDITION OF A NEW SUBSECTION to read:

8 23-5-112. Gifts and bequests to institutions of higher

1 education. (4) Gifts and bequests, made to a nonprofit  
2 foundation, institute, or similar organization operated for the  
3 sole benefit of a state institution of higher education and  
4 designated for the establishment of an endowed distinguished  
5 professorship at the institution, may be accepted by the  
6 governing board of the institution. Additional funds for such  
7 purpose may be appropriated by the general assembly to the  
8 governing board of the state institution of higher education, and  
9 such gifts, bequests, and appropriations shall be held in trust  
10 separately, invested, and the interest thereon used solely for  
11 maintenance of the distinguished professorship.

12 SECTION 2. Part 1 of article 22 of title 39, Colorado  
13 Revised Statutes 1973, as amended, is amended BY THE ADDITION OF  
14 A NEW SECTION to read:

15 39-22-128. Credit for charitable contributions to  
16 institutions of higher education - limitation. (1) For taxable  
17 years commencing January 1, 1981, and thereafter, there shall be  
18 allowed to individuals, estates, trusts, and domestic or foreign  
19 corporations, as a credit against the taxes imposed by this  
20 article, a credit in an amount equal to \_\_\_\_ percent of the  
21 aggregate amount of charitable contributions for educational  
22 purposes made by such taxpayer during such year to institutions  
23 of higher education or to any foundation, institute, or similar  
24 organization operated for the sole benefit of any such  
25 institution of higher education.

26 (2) In the case of an individual, estate, or trust, the

1 amount allowable as a credit under this section for any taxable  
2 year shall not exceed \_\_\_ dollars in the case of a single return  
3 or \_\_\_ dollars in the case of a joint return.

4 (3) In the case of a domestic corporation or a foreign  
5 corporation doing business in Colorado, the amount allowable as a  
6 credit under this section for any taxable year shall not exceed  
7 \_\_\_ percent of the tax imposed on the net income of such  
8 corporation during the year pursuant to section 39-22-301, as  
9 determined without regard to this section, or \_\_\_ dollars,  
10 whichever is less.

11 (4) The credit allowed by this section shall not exceed the  
12 amount of the tax imposed by this article reduced by the sum of  
13 all credits, as determined without regard to this section,  
14 allowed by this article.

15 (5) "Institution of higher education" means an educational  
16 institution operating in this state which meets all of the  
17 following:

18 (a) Admits as regular students persons having a  
19 certification of graduation from a school providing secondary  
20 education or comparable qualifications and persons for enrollment  
21 in courses which they reasonably may be expected to complete  
22 successfully;

23 (b) Is accredited by a nationally recognized accrediting  
24 agency or association and, in the case of private vocational  
25 schools, holds a regular certificate in accordance with the  
26 provisions of article 59 of title 12, C.R.S. 1973;



1 (c) (I) Provides an educational program for which it awards  
2 a bachelor's degree;

3 (II) Provides not less than a two-year program which is  
4 acceptable for full credit towards such a degree; or

5 (III) Provides not less than a six-month program of training  
6 to prepare students for gainful employment in a recognized  
7 occupation;

8 (d) Is not a pervasively sectarian or theological  
9 institution or any branch program of an institution of higher  
10 education whose principal campus and facilities are located  
11 outside this state.

12 SECTION 3. 39-22-301, Colorado Revised Statutes 1973, is  
13 amended BY THE ADDITION OF A NEW SUBSECTION to read:

14 39-22-301. Corporate tax imposed. (3) At the election of  
15 any such corporation, credit shall be allowed against the tax  
16 imposed by this section in an amount and subject to the  
17 limitations set forth in section 39-22-128.

18 SECTION 4. Applicability. This act shall apply to taxable  
19 years beginning on or after January 1, 1981.

20 SECTION 5. Safety clause. The general assembly hereby  
21 finds, determines, and declares that this act is necessary for  
22 the immediate preservation of the public peace, health, and  
23 safety.

BILL 9

A BILL FOR AN ACT

1 CONCERNING STUDENT FINANCIAL ASSISTANCE, AND MAKING AN  
2 APPROPRIATION THEREFOR.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Permits students at nonpervasively sectarian institutions of higher education to avail themselves of state student financial assistance.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 23-3.3-101 (3) (d), Colorado Revised Statutes  
5 1973, as amended, is amended to read:

6 23-3.3-101. Definitions. (3) (d) Is not a pervasively  
7 sectarian INSTITUTION, PURSUANT TO SECTION 23-3.5-105, or  
8 theological institution or any branch program of an institution  
9 of higher education whose principal campus and facilities are  
10 *located outside this state.*

11 SECTION 2. 23-3.3-102, Colorado Revised Statutes 1973, as  
12 amended, is amended to read:

1           23-3.3-102. Assistance program authorized - procedure -  
2 audits. (1) The general assembly hereby authorizes the  
3 commission to establish a program of financial assistance, to be  
4 operated during any school sessions, including summer sessions,  
5 for students attending state institutions OF HIGHER EDUCATION.  
6           (2) THE COMMISSION SHALL DETERMINE, BY GUIDELINE, THE  
7 INSTITUTIONS ELIGIBLE FOR PARTICIPATION IN THE PROGRAM.  
8           ~~(2)~~ (3) The commission shall administer the program with  
9 the assistance of state institutions according to policies and  
10 procedures established by the commission.  
11           (4) PROGRAM DISBURSEMENTS SHALL BE HANDLED BY THE  
12 INSTITUTION SUBJECT TO AUDIT AND REVIEW.  
13           (5) UPON COMMENCEMENT OF PARTICIPATION IN THE PROGRAM, NO  
14 PARTICIPATING INSTITUTION SHALL DECREASE THE AMOUNT OF ITS OWN  
15 FUNDS SPENT FOR STUDENT AID BELOW THE AMOUNT SO SPENT PRIOR TO  
16 PARTICIPATION IN THE PROGRAM.  
17           (6) IN DETERMINING THE AMOUNT ALLOCATED TO EACH INSTITUTION  
18 THAT IS NOT A STATE INSTITUTION, THE COMMISSION SHALL CONSIDER  
19 ONLY THAT PORTION OF FINANCIAL NEED WHICH WOULD HAVE EXISTED WERE  
20 THE INSTITUTION'S TUITION NO GREATER THAN THE HIGHEST IN-STATE  
21 TUITION RATE CHARGED BY A COMPARABLE STATE INSTITUTION.  
22           ~~(3)~~ (7) Each annual budget request submitted by the  
23 commission shall provide information on the proposed distribution  
24 of moneys among the programs developed under this article.  
25 Subsequent to final appropriation the commission shall provide to  
26 the joint budget committee an allocation proposal specifically

1 identifying the distributions among programs for the coming year.  
2 On or before December 30 of the following year, the commission  
3 shall provide to the joint budget committee a report of  
4 expenditures in the various programs. Expenditures in any  
5 program shall not exceed the allocation for that program by more  
6 than ten percent of such allocation, and the total appropriation  
7 for all student aid programs shall not be exceeded. The  
8 commission may require such reports from state institutions as  
9 are necessary to fulfill the reporting requirements of this  
10 subsection (3) (7) and to perform other administrative tasks.

11 ~~(4)~~ (8) The state auditor shall audit, in accordance with  
12 federal and commission guidelines, the grant program at any  
13 participating institution biannually to review residency  
14 determinations, needs analyses, awards, payment procedures, and  
15 such other practices as may be necessary to ensure that the grant  
16 program is being properly administered, but such audit shall be  
17 limited to the administration of the grant program at such  
18 participating institution.

19 SECTION 3. 23-3.3-203 (2), Colorado Revised Statutes 1973,  
20 as amended, is amended to read:

21 23-3.3-203. Veterans with service after August 5, 1964.

22 (2) Within guidelines to be established by the commission, any  
23 full-time or part-time student who is a veteran with service from  
24 August 5, 1964, who is an in-state student, who served on active  
25 duty for any period between August 5, 1964, through May 12, 1975,  
26 who was discharged or released from active duty, who was or is

1 eligible for federal educational benefits under chapter 34 of  
2 title 38, United States Code, and who was a resident of this  
3 state as established by the documented home of record at the time  
4 of entry into the service may be granted tuition assistance from  
5 state institutions of fifty percent of the weighted average  
6 in-state tuition.

7 SECTION 4. 23-3.3-204 (2), Colorado Revised Statutes 1973,  
8 as amended, is amended to read:

9 23-3.3-204. Dependents of prisoners of war and military  
10 personnel missing in action. (2) Any dependent of a prisoner of  
11 war or a person missing in action, upon being accepted for  
12 enrollment into any state institution, shall be permitted to  
13 pursue studies leading toward a bachelor's degree or a  
14 certificate of completion, free of tuition, for so long as said  
15 dependent achieves and maintains standards as set by the  
16 institution for its students generally, but said benefits shall  
17 not be extended beyond twelve academic quarters or eight academic  
18 semesters, as the case may be. SUCH DEPENDENTS PURSUING STUDIES  
19 AT AN INSTITUTION THAT IS NOT A STATE INSTITUTION SHALL BE  
20 ELIGIBLE FOR ASSISTANCE NOT TO EXCEED THE AVERAGE COST OF  
21 UNDERGRADUATE INSTRUCTION CALCULATED FOR A FULL-TIME EQUIVALENT  
22 STUDENT AT THE UNIVERSITY OF COLORADO AT BOULDER FOR THE PREVIOUS  
23 YEAR. The institution or the commission shall provide tuition  
24 assistance to such qualified students from appropriated student  
25 financial assistance funds.

26 SECTION 5. 23-3.3-205 (1) and (3), Colorado Revised

1 Statutes 1973, as amended, are amended to read:

2 23-3.3-205. Dependents of deceased or permanently disabled  
3 national guardsman, law enforcement officer, or fireman.

4 (1) Any dependent of a person who died or was permanently  
5 disabled while on state active duty or authorized training duty  
6 as a Colorado national guardsman or any dependent of any person  
7 who has been permanently disabled or killed while acting to  
8 preserve the public peace, health, and safety in the capacity of  
9 police officer, sheriff, or other law enforcement officer or  
10 fireman, upon being accepted for enrollment into any state  
11 institution, shall be permitted to pursue studies leading toward  
12 a bachelor's degree or a certificate of completion, free of  
13 tuition, for so long as said dependent achieves and maintains  
14 standards as set by the institution for its students generally,  
15 but said benefits shall not be extended beyond twelve academic  
16 quarters or eight academic semesters, as the case may be. SUCH  
17 DEPENDENTS PURSUING STUDIES AT AN INSTITUTION THAT IS NOT A STATE  
18 INSTITUTION SHALL BE ELIGIBLE FOR ASSISTANCE NOT TO EXCEED THE  
19 AVERAGE COST OF UNDERGRADUATE INSTRUCTION CALCULATED FOR A  
20 FULL-TIME EQUIVALENT STUDENT AT THE UNIVERSITY OF COLORADO AT  
21 BOULDER FOR THE PREVIOUS YEAR. The institutions or the  
22 commission shall provide tuition assistance to such qualified  
23 students from appropriated student financial assistance funds.

24 (3) An individual is permanently disabled for the purpose  
25 of determining eligibility of dependents to qualify for  
26 educational benefits if such individual is ineligible for

1 retention as a member of the national guard or as a police  
2 officer, sheriff, or other law enforcement officer or fireman and  
3 is unable to engage in any substantial full-time gainful activity  
4 by reason of medically determinable physical or mental impairment  
5 which can be expected to result in death, or which has lasted for  
6 a continuous period of not less than twelve months and exists at  
7 the time the dependent seeks entry into a ~~state~~ AN institution.

8 SECTION 6. 23-3.3-301, Colorado Revised Statutes 1973, as  
9 amended, is amended to read:

10 23-3.3-301. Student loan matching program - funding. Out  
11 of any moneys provided for the financial assistance program  
12 authorized by section 23-3.3-102 and remaining after meeting the  
13 requirements of part 2 of this article, the commission shall  
14 provide the matching funds required for federal allocations to  
15 ~~state~~ institutions for student loan programs.

16 SECTION 7. 23-3.3-401 (2), Colorado Revised Statutes 1973,  
17 as amended, is amended to read:

18 23-3.3-401. Work-study program established - requirements.  
19 (2) Any in-state student who is enrolled or accepted for  
20 enrollment at a ~~state~~ AN institution as an undergraduate may  
21 qualify for participation in the work-study program established  
22 pursuant to this section.

23 SECTION 8. 23-3.3-501, Colorado Revised Statutes 1973, as  
24 amended, is amended to read:

25 23-3.3-501. Scholarship and grant program - funding. The  
26 commission shall use a portion of any moneys remaining after

1 meeting the requirements of parts 2 and 3 of this article to  
2 provide other programs of financial assistance based upon  
3 financial need, merit, talent, or other criteria established by  
4 the commission for students enrolled at ~~state~~ institutions.

5 SECTION 9. Appropriation. There is hereby appropriated out  
6 of any moneys in the state treasury not otherwise appropriated,  
7 to the department of higher education, for the fiscal year  
8 commencing July 1, 1981, the sum of \_\_\_\_\_ dollars (\$ ),  
9 or so much thereof as may be necessary, for the implementation of  
10 this act.

11 SECTION 10. Effective date. This act shall take effect  
12 July 1, 1981.

13 SECTION 11. Safety clause. The general assembly hereby  
14 finds, determines, and declares that this act is necessary for  
15 the immediate preservation of the public peace, health, and  
16 safety.



## BILL 10

### A BILL FOR AN ACT

1 CONCERNING THE COLORADO STUDENT OBLIGATION BOND AUTHORITY.

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#### Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Raises the limit on the bonds which the authority may have outstanding at any time. Provides for the authority to have the same fiscal year as the federal government.

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2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 23-3.1-208 (1) (a), Colorado Revised Statutes  
4 1973, as amended, is amended to read:

5 23-3.1-208. Bonds. (1) (a) The authority may issue from  
6 time to time its bonds for the purpose of purchasing or making  
7 student obligations, but the authority shall not have  
8 outstanding, at any one time, bonds, not including bond  
9 anticipation notes and bonds which have been refunded, in an  
10 aggregate principal amount exceeding fifty TWO HUNDRED million  
11 dollars. The authority may not undertake the financing of the

1 making or purchasing of student obligations unless, prior to the  
2 issuance of any bonds or notes, the board finds that there is  
3 insufficient access to student obligations from normal private  
4 market sources and that such financing will help alleviate such  
5 insufficient access.

6 SECTION 2. 23-3.1-221, Colorado Revised Statutes 1973, as  
7 amended, is amended to read:

8 23-3.1-221. Account of activities - receipts for  
9 expenditures - report - audit. The authority shall keep an  
10 accurate account of all its activities and of all its receipts  
11 and expenditures and shall report annually on such activities,  
12 receipts, and expenditures in the month of February, to its  
13 members, to the governor, and to the state auditor, in a form  
14 prescribed by the state auditor. Also included in the report  
15 shall be any recommendations with reference to additional  
16 legislation or other action that may be necessary to carry out  
17 the purposes of the authority. The state auditor may investigate  
18 the affairs of the authority, may examine the properties and  
19 records of the authority, and may prescribe methods of accounting  
20 and the rendering of periodical reports in relation to  
21 undertakings by the authority. THE AUTHORITY SHALL ADOPT AND  
22 PREPARE A BUDGET FOR THE NEXT FISCAL YEAR IN ACCORDANCE WITH THE  
23 BYLAWS OF THE AUTHORITY. THE FISCAL YEAR OF THE AUTHORITY SHALL  
24 BEGIN ON OCTOBER 1 AND SHALL END ON SEPTEMBER 30.

25 SECTION 3. Safety clause. The general assembly hereby  
26 finds, determines, and declares that this act is necessary for

1 the immediate preservation of the public peace, health, and  
2 safety.

BILL 11

A BILL FOR AN ACT

1 RELATING TO THE FINANCING OF FACILITIES AT INSTITUTIONS OF  
2 POSTSECONDARY EDUCATION, AND ENACTING THE "COLORADO  
3 POSTSECONDARY EDUCATIONAL FACILITIES AUTHORITY ACT" IN  
4 CONNECTION THEREWITH.

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Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Creates the Colorado postsecondary educational facilities authority as an independent body politic and corporate and a political subdivision of the state, not an agency of the state. Establishes a governing board and specifies the powers, duties, functions, and obligations of the authority relating to the financing of facilities at institutions of postsecondary education, which includes both public and private institutions.

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5 Be it enacted by the General Assembly of the State of Colorado:

6 SECTION 1. Title 23, Colorado Revised Statutes 1973, as  
7 amended, is amended BY THE ADDITION OF A NEW ARTICLE to read:

8 ARTICLE 15

9 Colorado Postsecondary Educational Facilities Authority

10 23-15-101. Short title. This article shall be known and

1 may be cited as the "Colorado Postsecondary Educational  
2 Facilities Authority Act".

3 23-15-102. Legislative declaration. (1) The general  
4 assembly hereby finds and declares that, for the benefit of the  
5 people of the state of Colorado and the improvement of their  
6 health, welfare, and living conditions, it is desirable that the  
7 people of this state have adequate postsecondary educational  
8 opportunities and postsecondary educational facilities; that it  
9 is essential that institutions of postsecondary education within  
10 this state be provided with appropriate additional means to  
11 assist in the development and maintenance of postsecondary  
12 educational opportunities; and that it is the purpose of this  
13 article to provide a measure of assistance to enable institutions  
14 of postsecondary education in this state to refund or refinance  
15 outstanding indebtedness incurred for postsecondary educational  
16 facilities and to provide additional facilities and structures  
17 which are greatly needed to accomplish the purposes of this  
18 article, all to the public benefit and good as provided in this  
19 article.

20 (2) It is the intent of the general assembly to create the  
21 Colorado postsecondary educational facilities authority to lend  
22 money to institutions of postsecondary education, to authorize  
23 the authority to acquire, construct, reconstruct, repair, alter,  
24 improve, extend, own, lease, and dispose of properties to the end  
25 that the authority may be able to promote the welfare of the  
26 people of this state, and to vest such authority with powers to

1 enable such authority to accomplish such purpose; but it is not  
2 the intent of the general assembly to authorize the authority to  
3 operate any such postsecondary educational facility.

4 (3) This article shall be liberally construed to accomplish  
5 the intentions expressed in this section.

6 23-15-103. Definitions. As used in this article, unless  
7 the context otherwise requires:

8 (1) "Authority" means the Colorado postsecondary  
9 educational facilities authority created by this article.

10 (2) "Board" means the board of directors of the authority.

11 (3) "Bond", "note", "bond anticipation note", or "other  
12 obligation" means any bond, note, debenture, interim certificate,  
13 or other evidence of financial indebtedness issued by the  
14 authority pursuant to this article, including refunding bonds.

15 (4) "Bond resolution" means the resolution authorizing the  
16 issuance of, or providing terms and conditions related to, bonds  
17 issued under the provisions of this article and includes any  
18 trust agreement, trust indenture, indenture of mortgage, or deed  
19 of trust providing terms and conditions for such bonds.

20 (5) "Commission" means the Colorado commission on higher  
21 education.

22 (6) "Costs", as applied to facilities financed in whole or  
23 in part under the provisions of this article, means and includes  
24 the sum total of all reasonable or necessary costs incidental to  
25 the acquisition, construction, reconstruction, repair,  
26 alteration, equipment, enlargement, improvement, and extension of

1 such facilities and the acquisition of all lands, structures,  
2 real or personal property, rights, rights-of-way, franchises,  
3 easements, and interest acquired, necessary, used for, or useful  
4 for or in connection with a facility and all other undertakings  
5 which the authority deems reasonable or necessary for the  
6 development of a facility, including without limitation the cost  
7 of studies and surveys, of land title and mortgage guaranty  
8 policies, of plans, specifications, and architectural and  
9 engineering services, of legal, organization, marketing, or other  
10 special services, of financing, acquisition, demolition,  
11 construction, equipment, and site development of new and  
12 rehabilitated buildings, of rehabilitation, reconstruction,  
13 repair, or remodeling of existing buildings, and of all other  
14 necessary and incidental expenses, including working capital, an  
15 initial bond, and interest reserve funds, together with interest  
16 on bonds issued to finance such facilities until a date not more  
17 than six months subsequent to the estimated date of completion.

18 (7) (a) "Facility", in the case of a participating  
19 institution of postsecondary education, means any structure or  
20 building suitable for use as a housing facility, an instructional  
21 facility, an administration building, a research facility, a  
22 laboratory, a maintenance, storage, or utility facility, an  
23 auditorium, a dining hall, a food service and preparation  
24 facility, a mental or physical health care facility, a  
25 recreational facility, or a student center facility or any other  
26 structure or facility required or useful for the operation of an

1 institution of postsecondary education, including, but not  
2 limited to: Offices, parking lots and garages, and other  
3 supporting service structures; all necessary, useful, and related  
4 equipment, furnishings, and appurtenances; and the acquisition,  
5 preparation, and development of all real and personal property  
6 necessary or convenient as a site or sites for any such structure  
7 or facility.

8 (b) "Facility" does not include such items as food, fuel,  
9 supplies, or other items which are customarily considered as  
10 current operating expenses or charges; nor does it include any  
11 property used or to be used primarily for sectarian instruction  
12 or study or as a place for devotional activities or religious  
13 worship or any property used or to be used primarily in  
14 connection with any part of a program of a school or department  
15 of divinity of any religious denomination.

16 (8) (a) "Institution of postsecondary education" means an  
17 educational institution operating in this state which:

18 (I) Admits as regular students only persons having a  
19 certificate of graduation from a school providing secondary  
20 education or the recognized equivalent of such a certificate;

21 (II) Is accredited by a nationally recognized accrediting  
22 agency or association;

23 (III) (A) Provides an educational program for which it  
24 awards a bachelor's degree; or

25 (B) Provides not less than a two-year program which is  
26 acceptable for full credit towards such a degree.



1           (b) "Institution of postsecondary education" does not  
2 include any pervasively sectarian or theological institution or  
3 any branch program of an institution of postsecondary education  
4 whose principal campus and facilities are located outside this  
5 state.

6           (9) "Private institution" means an institution of  
7 postsecondary education which receives no support from general  
8 fund moneys in support of its operating costs and is a not for  
9 profit organization exempt from income taxation under the federal  
10 "Internal Revenue Code of 1954", as amended.

11          (10) "Refinancing of outstanding obligations" means  
12 liquidation, with the proceeds of bonds or notes issued by the  
13 authority, of any indebtedness of a participating institution of  
14 postsecondary education incurred prior to, on, or after July 1,  
15 1981, to finance or aid in financing a lawful purpose of such  
16 institution not financed pursuant to this article which would  
17 constitute a facility had it been undertaken and financed by the  
18 authority. The term also means consolidation of such  
19 indebtedness with indebtedness of the authority incurred for a  
20 facility related to the purpose for which the indebtedness of  
21 such institution was initially incurred.

22          (11) "Revenues" means, with respect to facilities, the  
23 rents, fees, charges, interest, principal repayments, and other  
24 income received or to be received by the authority from any  
25 source on account of such facilities.

26          23-15-104. Authority - creation - board - organization.

1 (1) There is hereby created an independent public body politic  
2 and corporate to be known as the Colorado postsecondary  
3 educational facilities authority. Said authority is constituted  
4 a public instrumentality, and its exercise of the powers  
5 conferred by this article shall be deemed and held to be the  
6 performance of an essential public function. The authority shall  
7 be a body corporate and a political subdivision of the state and  
8 shall not be an agency of state government and shall not be  
9 subject to administrative direction by any department,  
10 commission, board, or agency of the state.

11 (2) (a) The governing body of the authority shall be a  
12 board of directors, which shall consist of seven members to be  
13 appointed by the governor, with the consent of the senate. Such  
14 members shall be residents of the state. No more than four of  
15 the members shall be of the same political party. The members of  
16 the board first appointed shall serve for terms to be designated  
17 by the governor, expiring on June 30 of each year beginning in  
18 1982 and ending in 1988. Upon the expiration of the term of any  
19 member, his successor shall be appointed for a term of seven  
20 years. Each member shall serve until his successor has been  
21 appointed and has qualified. Any member shall be eligible for  
22 reappointment. The governor shall fill any vacancy by  
23 appointment for the remainder of an unexpired term.

24 (b) Any member of the board may be removed by the governor  
25 for misfeasance, malfeasance, willful neglect of duty, or other  
26 cause, after notice and a public hearing, unless such notice and

1 hearing is expressly waived in writing.

2 23-15-105. Organizational meeting - chairman - executive  
3 director - surety bond - conflict of interest. (1) A member of  
4 the board, designated by the governor, shall call and convene the  
5 initial organizational meeting of the board and shall serve as  
6 its chairman pro tempore. At such meeting, appropriate bylaws  
7 shall be presented for adoption. The bylaws may provide for the  
8 election or appointment of officers, the delegation of certain  
9 powers and duties, and such other matters as the authority deems  
10 proper. At such meeting and annually thereafter, the board shall  
11 elect one of its members as chairman and one as vice-chairman.  
12 It shall appoint an executive director and an associate executive  
13 director, who shall not be members of the board and who shall  
14 serve at its pleasure. They shall receive such compensation for  
15 their services as shall be fixed by the board.

16 (2) The executive director, the associate executive  
17 director, or any other person designated by the board shall keep  
18 a record of the proceedings thereof and shall be custodian of all  
19 books, documents, and papers filed with the board, the minute  
20 books or journal thereof, and its official seal. Said executive  
21 director, associate executive director, or other person may cause  
22 copies of all minutes and other records and documents of the  
23 board to be made and may give certificates under the official  
24 seal of the authority to the effect that such copies are true  
25 copies, and all persons dealing with the authority may rely on  
26 such certificates.

1           (3) The board may delegate, by resolution, to one or more  
2 of its members or to its executive director or associate  
3 executive director such powers and duties as it may deem proper.

4           (4) Before the issuance of any bonds under this article,  
5 the executive director and associate executive director shall  
6 each execute a surety bond in the penal sum of one hundred  
7 thousand dollars, and each member of the board shall execute a  
8 surety bond in the penal sum of fifty thousand dollars, or, in  
9 lieu thereof, the chairman of the board shall execute a blanket  
10 bond covering each member, the executive director, the associate  
11 executive director, and the employees or other officers of the  
12 authority, each surety bond to be conditioned upon the faithful  
13 performance of the duties of the office or offices covered, to be  
14 executed by a surety authorized to transact business in this  
15 state as surety. The cost of each such bond shall be paid by the  
16 authority.

17           (5) Notwithstanding any other law to the contrary, it shall  
18 not constitute a conflict of interest for a trustee, director,  
19 officer, or employee of any institution of postsecondary  
20 education to serve as a member of the board; except that such  
21 trustee, director, officer, or employee shall disclose in writing  
22 such interest to the board seventy-two hours in advance and may  
23 abstain from deliberation, action, and vote by the board in each  
24 instance where the business affiliation of any such trustee,  
25 director, officer, or employee is involved.

26           23-15-106. Meetings of board - quorum - expenses.

1 (1) Four members of the board shall constitute a quorum for the  
2 purpose of conducting business and exercising its powers. Action  
3 may be taken by the board upon the affirmative vote of at least  
4 four of its members. No vacancy in the membership of the board  
5 shall impair the right of a quorum to exercise all the rights and  
6 perform all the duties of the board.

7 (2) Each meeting of the board for any purpose whatsoever  
8 shall be open to the public. Notice of meetings shall be as  
9 provided in the bylaws of the authority. Resolutions need not be  
10 published or posted, but resolutions and all proceedings and  
11 other acts of the board shall be a public record.

12 (3) Members of the board shall receive no compensation for  
13 their services but shall be entitled to the necessary expenses,  
14 including traveling and lodging expenses, incurred in the  
15 discharge of their official duties. Any payments for  
16 compensation and expenses shall be paid from funds of the  
17 authority.

18 23-15-107. General powers of the authority. (1) In  
19 addition to any other powers granted to the authority by this  
20 article, the authority shall have the following powers:

21 (a) To have perpetual existence and succession as a body  
22 politic and corporate;

23 (b) To adopt and from time to time amend or repeal bylaws  
24 for the regulation of its affairs and the conduct of its  
25 business, consistent with the provisions of this article;

26 (c) To sue and be sued;

1           (d) To have and to use a seal and to alter the same at  
2 pleasure;

3           (e) To maintain an office at such place or places as it may  
4 designate;

5           (f) To determine, in accordance with the provisions of this  
6 article, the location and character of any facility to be  
7 financed under the provisions of this article and to acquire,  
8 construct, reconstruct, renovate, improve, alter, replace,  
9 maintain, repair, operate, and lease such facility as lessee or  
10 lessor; to enter into contracts for any and all of such purposes  
11 and for the management and operation of a facility; and to  
12 designate a participating institution of postsecondary education  
13 as its agent to determine the location and character of a  
14 facility undertaken by such participating institution under the  
15 provisions of this article, and, as agent of the authority, to  
16 acquire, construct, reconstruct, renovate, replace, alter,  
17 improve, maintain, repair, operate, lease as lessee or lessor,  
18 and regulate the same and to enter into contracts for any and all  
19 of such purposes including contracts for the management and  
20 operation of such facility;

21           (g) To lease to a participating institution of  
22 postsecondary education any or all of the facilities upon such  
23 terms and conditions as the authority shall deem proper; to  
24 charge and collect rent therefor and to terminate any such lease  
25 upon the failure of the lessee to comply with any of the  
26 obligations thereof; and to include in any such lease, if

1 desired, provisions that the lessee thereof shall have options to  
2 renew the term of the lease for such period or periods, at such  
3 rent, and upon such terms or conditions as shall be determined by  
4 the authority or to purchase any or all of the facilities or to  
5 include, if desired, provisions that, upon payment of all of the  
6 indebtedness incurred by the authority for the financing of such  
7 facilities, the authority will convey any or all of the  
8 facilities to the lessee or lessees thereof with or without  
9 consideration;

10 (h) To borrow money and to issue bonds, notes, bond  
11 anticipation notes, or other obligations for any of its corporate  
12 purposes and to fund or refund the same, all as provided for in  
13 this article;

14 (i) To establish rules and regulations, and to designate a  
15 participating institution of postsecondary education as its agent  
16 to establish such rules and regulations, for the use of the  
17 facilities undertaken or operated by such participating  
18 institution and to employ or contract for consulting engineers,  
19 architects, attorneys, accountants, construction and financial  
20 experts, superintendents, managers, and such other employees and  
21 agents as may be necessary in its judgment and to fix their  
22 compensation;

23 (j) To receive and accept from the federal government, the  
24 state of Colorado, or any other public agency loans, grants, or  
25 contributions for or in aid of the construction of facilities or  
26 any portion thereof, or for equipping the same, and to receive

1 and accept grants, gifts, or other contributions from any source,  
2 but only for the purposes for which they were loaned,  
3 contributed, or granted;

4 (k) To mortgage or pledge all or any portion of the  
5 facilities and the site or sites thereof, whether then owned or  
6 thereafter acquired, for the benefit of the holders of bonds  
7 issued to finance such facilities or any portion thereof;

8 (l) To make mortgage loans or other secured or unsecured  
9 loans to any participating institution of postsecondary education  
10 for the cost of the facilities in accordance with an agreement  
11 between the authority and such participating institution; but no  
12 such loan shall exceed the total cost of such facilities as  
13 determined by such participating institution and approved by the  
14 authority;

15 (m) To make mortgage loans or other secured or unsecured  
16 loans to a participating institution of postsecondary education;  
17 to refund outstanding obligations, mortgages, or advances issued,  
18 made, or given by such participating institution for the cost of  
19 its facilities, including the issuance of bonds and the making of  
20 loans to a participating institution of postsecondary education;  
21 or to refinance outstanding obligations and indebtedness incurred  
22 for facilities undertaken and completed prior to, on, or after  
23 July 1, 1981, when the authority finds that such financing is in  
24 the public interest and alleviates the financial hardship upon  
25 the participating institution of postsecondary education or is in  
26 connection with other financing by the authority for such



1 participating institution;

2 (n) To obtain or aid in obtaining, from any department or  
3 agency of the United States or of this state or any private  
4 company, any insurance or guarantee as to, or of, or for the  
5 payment or repayment of the interest or principal, or both the  
6 interest and principal, or any part of either or both on any  
7 loan, lease, or obligation or any instrument evidencing or  
8 securing the same made or entered into pursuant to the provisions  
9 of this article and, notwithstanding any other provisions of this  
10 article, to enter into any agreement, contract, or other  
11 instrument whatsoever with respect to any such insurance or  
12 guarantee, to accept payment in such manner and form as provided  
13 therein in the event of default by a participating institution of  
14 postsecondary education, and to assign any such insurance or  
15 guarantee as security for the authority's bonds;

16 (o) To charge to and equitably apportion among  
17 participating institutions of postsecondary education the  
18 administrative costs and expenses of the authority incurred in  
19 the exercise of the powers granted and duties conferred by this  
20 article;

21 (p) To make and execute contracts and all other instruments  
22 necessary or convenient for the exercise of its powers and  
23 functions under this article;

24 (q) To do all other things necessary and convenient to  
25 carry out the purposes of this article.

26 (2) The authority shall not have the power to operate a

1 facility as a business other than as a lessee or lessor. Any  
2 lease of a facility entered into pursuant to the provisions of  
3 this article shall be for a term not shorter than the longest  
4 maturity of any bonds issued to finance such facility or a  
5 portion thereof and shall provide for rentals adequate to pay  
6 principal and interest on such bonds as the same fall due and to  
7 create and maintain such reserves and accounts for depreciation  
8 as the authority shall determine to be necessary.

9 (3) No institution of postsecondary education supported in  
10 whole or in part by state funds shall have a facility financed by  
11 the authority unless said financing has first been approved by  
12 the commission and the general assembly.

13 23-15-108. Acquisition of property. The authority,  
14 directly or by or through a participating institution of  
15 postsecondary education as its agent, may acquire by purchase,  
16 lease, gift, devise, or other means such lands, structures, real  
17 or personal property, rights-of-way, franchises, easements, and  
18 other interests in lands, including lands lying under water and  
19 riparian rights which are located within or without the state, as  
20 it may deem necessary or convenient for the construction,  
21 acquisition, or operation of facilities, upon such terms as may  
22 be considered by the authority to be reasonable, and may take  
23 title thereto in the name of the authority or in the name of such  
24 participating institution of postsecondary education as its  
25 agent.

26 23-15-109. Notes. The authority may issue from time to

1 time its negotiable notes for any corporate purpose, including  
2 the payment of all or any part of the cost of any facility, and  
3 may renew from time to time any notes by the issuance of new  
4 notes, whether the notes to be renewed have or have not matured.  
5 The authority may issue notes partly to renew notes or to  
6 discharge other obligations then outstanding and partly for some  
7 other purpose. The notes may be authorized, sold, executed, and  
8 delivered in the same manner as bonds. Any resolution or  
9 resolutions authorizing notes of the authority or any issue  
10 thereof may contain any provisions which the authority is  
11 authorized to include in any resolution or resolutions  
12 authorizing bonds of the authority or any issue thereof, and the  
13 authority may include in any notes any terms, covenants, or  
14 conditions which it is authorized to include in any bonds. All  
15 such notes shall be payable from the proceeds of bonds or renewal  
16 notes or from the revenues of the authority or other moneys  
17 available therefor and not otherwise pledged, subject only to any  
18 contractual rights of the holders of any of its notes or other  
19 obligations then outstanding.

20 23-15-110. Bonds. (1) The authority may issue from time  
21 to time its bonds in such principal amounts as the authority  
22 shall determine for the purpose of financing all or a part of the  
23 cost of any facilities authorized by this article or for the  
24 refinancing of outstanding obligations. In anticipation of the  
25 sale of such bonds, the authority may issue bond anticipation  
26 notes and may renew the same from time to time. Such notes shall

1 be paid from any revenues of the authority or other moneys  
2 available therefor and not otherwise pledged or from the proceeds  
3 of the sale of the bonds of the authority in anticipation of  
4 which they were issued. The notes shall be issued in the same  
5 manner as bonds. Such notes and the resolution or resolutions  
6 authorizing them may contain any provisions, conditions, or  
7 limitations which a bond resolution of the authority may contain.

8 (2) The bonds may be issued as serial bonds, as term bonds,  
9 or as a combination of both types. All bonds issued by the  
10 authority shall be payable solely out of the revenues and  
11 receipts derived from the leasing, mortgaging, or sale by the  
12 authority of the facilities concerned or of any part thereof as  
13 designated in the resolutions of the authority under which the  
14 bonds are authorized to be issued or as designated in a trust  
15 indenture authorized by the authority, which trust indenture  
16 shall name a bank or trust company in Colorado as trustee, or out  
17 of other moneys available therefor and not otherwise pledged.  
18 Such bonds may be executed and delivered by the authority at such  
19 times, may be in such form and denominations and include such  
20 terms and maturities, may be in fully registered form or in  
21 bearer form registerable either as to principal or interest or  
22 both, may bear such conversion privileges, may be payable in such  
23 installments and at such time or times not exceeding forty years  
24 from the date thereof, may be payable at such place or places  
25 whether within or without the state of Colorado, may bear  
26 interest at such rate or rates per annum as shall be determined

1 by the authority and without regard to any interest rate  
2 limitation appearing in any other law, may be evidenced in such  
3 manner, may be executed by such officers of the authority (either  
4 manually or by facsimile), may be in such form of coupon bonds  
5 having attached thereto interest coupons bearing the facsimile  
6 signature of an authorized officer of the authority, and may  
7 contain such provisions not inconsistent with this article as  
8 shall be provided in the resolutions of the authority under which  
9 the bonds are authorized to be issued or as is provided in a  
10 trust indenture authorized by the authority.

11 (3) If deemed advisable by the authority, there may be  
12 retained in the resolutions or the trust indenture under which  
13 any bonds of the authority are authorized to be issued an option  
14 to redeem all or any part thereof as may be specified in such  
15 resolutions or in such trust indenture, at such price or prices,  
16 after such notice or notices, and on such terms and conditions as  
17 may be set forth in such resolutions or in such trust indenture  
18 and as may be briefly recited on the face of the bonds; but  
19 nothing in this article shall be construed to confer on the  
20 authority the right or option to redeem any bonds except as may  
21 be provided in the resolutions or in such trust indenture under  
22 which they are issued.

23 (4) The bonds or notes of the authority may be sold at  
24 public or private sale for such price or prices, in such manner,  
25 and at such times as may be determined by the authority, and the  
26 authority may pay all expenses, premiums, and commissions which

1 it may deem necessary or advantageous in connection with the  
2 issuance thereof. The power to fix the date of sale of bonds and  
3 notes, to receive bids or proposals, to award and sell bonds and  
4 notes, and to take all other necessary action to sell and deliver  
5 bonds and notes may be delegated to the executive director of the  
6 authority by resolution of the authority. Pending preparation of  
7 the definitive bonds, the authority may issue interim receipts or  
8 certificates to be exchanged for such definitive bonds.

9 (5) (a) Issuance by the authority of one or more series of  
10 bonds for one or more purposes shall not preclude it from issuing  
11 other bonds in connection with the same facilities or any other  
12 facilities or for any other purpose under this article, but the  
13 resolutions or trust indenture under which any subsequent bonds  
14 may be issued shall recognize the terms and provisions of any  
15 prior pledge or mortgage made for any prior issue of bonds and  
16 the terms upon which such additional bonds may be issued and  
17 secured. Any outstanding bonds of the authority may, at any time  
18 and from time to time, be refunded or advance refunded by the  
19 authority by the issuance of its bonds for such purpose and in  
20 such principal amount as may be determined by the authority,  
21 which may include interest accrued or to accrue thereon with or  
22 without giving effect to investment income thereon and other  
23 expenses necessary to be paid in connection therewith. If deemed  
24 advisable by the authority, such bonds may be refunded or advance  
25 refunded for the additional purpose of paying all or any part of  
26 the cost of constructing and acquiring additions, improvements,

1 extensions, or enlargements of a facility or any portion thereof.

2 (b) Any such refunding may be effected whether the bonds to  
3 be refunded have then matured or will mature thereafter, either  
4 by sale of the refunding bonds and the application of the  
5 proceeds thereof for the payment of the bonds to be refunded  
6 thereby or by the exchange of the refunding bonds for the bonds  
7 to be refunded thereby with the consent of the holders of the  
8 bonds to be so refunded, regardless of whether or not the bonds  
9 to be refunded were issued in connection with the same facilities  
10 or separate facilities or for any other purpose under this  
11 article and regardless of whether or not the bonds proposed to be  
12 refunded are payable on the same date or different dates or are  
13 due serially or otherwise. The proceeds of any such bonds issued  
14 for the purpose of refunding outstanding bonds may be applied, in  
15 the discretion of the authority, to the purchase or retirement at  
16 maturity or redemption of such outstanding bonds either on their  
17 earliest or any subsequent redemption date or upon the purchase  
18 or at the maturity thereof and, pending such application, may be  
19 placed in escrow to be applied to such purchase or retirement at  
20 maturity or redemption on such date as may be determined by the  
21 authority. Any such escrowed proceeds, pending such use, may be  
22 invested and reinvested in obligations of or guaranteed by the  
23 United States of America or in certificates of deposit or time  
24 deposits secured by obligations of or guaranteed by the United  
25 States of America, maturing at such time or times as are  
26 appropriate to assure the prompt payment as to principal,

1 interest, and redemption premium, if any, of the outstanding  
2 bonds to be so refunded. The interest, income, and profit, if  
3 any, earned or realized on any such investment may also be  
4 applied, in the discretion of the authority, to the payment of  
5 the outstanding bonds or notes to be so refunded or to the  
6 payment of principal and interest on the refunding bonds or for  
7 any other purpose under this article. After the terms of the  
8 escrow have been fully satisfied and carried out, any balance of  
9 such proceeds and interest, income, and profits, if any, earned  
10 or realized on the investments thereof may be returned to the  
11 authority for use by it in any lawful manner. The portion of the  
12 proceeds of any such bonds issued for the additional purpose of  
13 paying all or any part of the cost of constructing and acquiring  
14 additions, improvements, extensions, or enlargements of a  
15 facility may be invested and reinvested in obligations of or  
16 guaranteed by the United States of America or in certificates of  
17 deposit or time deposits secured by obligations of or guaranteed  
18 by the United States of America, maturing not later than the time  
19 or times when such proceeds will be needed for the purpose of  
20 paying all or any part of such cost. The interest, income, and  
21 profits, if any, earned or realized on such investment may be  
22 applied to the payment of all or any part of such cost or may be  
23 used by the authority in any lawful manner. All such bonds shall  
24 be subject to the provisions of this article in the same manner  
25 and to the same extent as other bonds issued pursuant to this  
26 article.



1           23-15-111. Negotiability of bonds. All bonds and the  
2 interest coupons applicable thereto are hereby declared and shall  
3 be construed to be negotiable instruments.

4           23-15-112. Security for bonds and notes. (1) The principal  
5 of and interest on any bonds or notes issued by the authority may  
6 be secured by a pledge of or security interest in the revenues,  
7 rentals, and receipts out of which the same may be made payable  
8 or from other moneys available therefor and not otherwise pledged  
9 or used as security and may be secured by a trust indenture,  
10 mortgage, or deed of trust (including assignment of leases or  
11 other contract rights of the authority thereunder) covering all  
12 or any part of the facilities from which the revenues, rentals,  
13 or receipts so pledged or used as security may be derived,  
14 including any enlargements of and additions to any such facility  
15 thereafter made. The resolution under which the bonds are  
16 authorized to be issued and any such trust indenture, mortgage,  
17 or deed of trust may contain any agreements and provisions which  
18 shall be a part of the contract with the holders of the bonds or  
19 notes to be authorized as to:

20           (a) The pledging or providing of a security interest in all  
21 or any part of the revenues of a facility or any  
22 revenue-producing contract or contracts made by the authority  
23 with any individual, partnership, corporation, or association or  
24 any other body, public or private, to secure the payment of the  
25 bonds or notes or of any particular issue of bonds, subject to  
26 such agreements with noteholders or bondholders as may then

1     exist;

2           (b) The maintenance of properties covered thereby;

3           (c) The fixing and collection of mortgage payments, rents,  
4     fees, and other charges and the amounts to be raised in each year  
5     thereby and the use and disposition of the revenues;

6           (d) The setting aside, creating, and maintaining of special  
7     and reserve funds and sinking funds and the use and disposition  
8     of the revenues;

9           (e) The limitations on the right of the authority or its  
10    agent to restrict and regulate the use of the facilities;

11          (f) The limitations on the purpose to which the proceeds of  
12    sale of any issue of bonds or notes then or thereafter to be  
13    issued may be applied and the pledging or providing of a security  
14    interest in such proceeds to secure the payment of the bonds or  
15    notes or any issue of the bonds or notes;

16          (g) The limitations on the issuance of additional bonds,  
17    the terms upon which additional bonds may be issued and secured,  
18    and the refunding of outstanding bonds;

19          (h) The procedure, if any, by which the terms of any  
20    contract with bondholders or noteholders may be amended or  
21    abrogated and the total amount of bonds or notes consented to by  
22    the holders thereof and the manner in which such consent may be  
23    given;

24          (i) The limitations on the amount of moneys derived from a  
25    facility to be expended for operating, administrative, or other  
26    expenses of the authority;

1           (j) The defining of the acts or omissions to act  
2     constituting a default in the duties of the authority to holders  
3     of its obligations and the providing of rights and remedies to  
4     such holders in the event of a default;

5           (k) The mortgaging of a facility and the site thereof for  
6     the purpose of securing the bondholders or noteholders;

7           (l) Such other additional covenants, agreements, and  
8     provisions as are judged advisable or necessary by the authority  
9     for the security of the holders of such bonds or notes.

10          (2) Any pledge made by the authority shall be valid and  
11     binding at the time the pledge is made and thereafter until  
12     satisfied. The revenues, moneys, or property so pledged and  
13     thereafter received by the authority shall immediately be subject  
14     to the lien of such pledge without any physical delivery thereof  
15     or further act, and the lien of such pledge shall be valid and  
16     binding as against all parties having claims of any kind in tort  
17     or contract or in any other form against the authority,  
18     irrespective of whether such parties have notice thereof.  
19     Neither the resolution nor any other instrument by which a pledge  
20     is created need be recorded. Each pledge, agreement, lease,  
21     indenture, mortgage, and deed of trust made for the benefit or  
22     security of any of the bonds of the authority shall continue to  
23     be effective until the principal of and interest on the bonds for  
24     the benefit of which the same were made has been fully paid or  
25     provision for such payment has been duly made. In the event of  
26     default in such payment or in any agreements of the authority

1 made as a part of the contract under which the bonds were issued,  
2 whether contained in the resolutions authorizing the bonds or in  
3 any trust indenture, mortgage, or deed of trust executed as  
4 security therefor, said payment or agreement may be enforced by  
5 suit, action in the nature of mandamus, appointment of a receiver  
6 in equity, foreclosure of any mortgage or deed of trust, or any  
7 one or more of said remedies.

8 (3) In addition to the provisions of subsections (1) and  
9 (2) of this section, bonds of the authority may be secured by a  
10 pooling of leases or mortgages whereby the authority may assign  
11 its rights as lessor or mortgagee and pledge rents or mortgage  
12 payments under two or more leases or mortgages, with two or more  
13 participating institutions of postsecondary education as lessees  
14 or mortgagors, respectively, upon such terms as may be provided  
15 for in the resolutions of the authority or as may be provided for  
16 in a trust indenture or mortgage or deed of trust authorized by  
17 the authority.

18 23-15-113. Personal liability. Neither the members of the  
19 authority nor any person executing the bonds or notes shall be  
20 liable personally on bonds or notes or be subject to any personal  
21 liability or accountability by reason of the issuance thereof.

22 23-15-114. Purchase. The authority may purchase its bonds  
23 or notes out of any funds available therefor. The authority may  
24 hold, pledge, cancel, or resell such bonds or notes, subject to  
25 and in accordance with agreements with bondholders or  
26 noteholders.

1           23-15-115. Procedure before issuance of bonds. (1)

2   Notwithstanding any other provisions of this article, the  
3   authority may not undertake any facility authorized by this  
4   article unless, prior to the issuance of any bonds or notes, the  
5   board finds that;

6           (a) Such facility will enable or assist an institution of  
7   postsecondary education to fulfill its obligation to provide  
8   facilities; and

9           (b) Such facility has been reviewed and approved by the  
10   commission if the institution of postsecondary education receives  
11   support from general fund moneys.

12           23-15-116. Trust agreement to secure bonds. In the  
13   discretion of the authority, any bonds issued pursuant to this  
14   article may be secured by a trust agreement between the authority  
15   and a corporate trustee or trustees, which may be any trust  
16   company or bank having the powers of a trust company in Colorado.  
17   Such trust agreement or the resolution providing for the issuance  
18   of such bonds may pledge or assign the revenues to be received or  
19   the proceeds of any contract or contracts pledged and may convey  
20   or mortgage the facilities or any portion thereof. Such trust  
21   agreement or resolution providing for the issuance of such bonds  
22   may contain such provisions for protecting and enforcing the  
23   rights and remedies of the bondholders as may be reasonable,  
24   proper, and not in violation of law, including particularly such  
25   provisions as have been specifically authorized to be included in  
26   any resolution or resolutions of the authority authorizing bonds

1     thereof. Any bank or trust company incorporated under the laws  
2     of this state which may act as depository of the proceeds of  
3     bonds or of revenues or other moneys may furnish such  
4     indemnifying bonds or pledge such securities as may be required  
5     by the authority. Any such trust agreement may set forth the  
6     rights and remedies of the bondholders and of the trustee or  
7     trustees and may restrict the individual right of action by  
8     bondholders. In addition, any such trust agreement or resolution  
9     may contain such other provisions as the authority may deem  
10    reasonable and proper for the security of the bondholders. All  
11    expenses incurred in carrying out such trust agreement or  
12    resolution may be treated as a part of the cost of the operation  
13    of a facility.

14       23-15-117. Payment of bonds - nonliability of state. Bonds  
15    and notes issued by the authority shall not constitute or become  
16    an indebtedness, a debt, or a liability of the state, the general  
17    assembly, or any county, city, city and county, town, school  
18    district, or other political subdivision of the state or of any  
19    other political subdivision or body corporate and politic within  
20    the state, and neither the state, the general assembly, nor any  
21    county, city, city and county, town, school district, or other  
22    political subdivision of the state shall be liable thereon; nor  
23    shall such bonds or notes constitute the giving, pledging, or  
24    loaning of the faith and credit of the state, the general  
25    assembly, or any county, city, city and county, town, school  
26    district, or other political subdivision of the state or of any

1 other political subdivision or body corporate and politic within  
2 the state, but such bonds or notes shall be payable solely from  
3 the funds provided for in this article. The issuance of bonds or  
4 notes under the provisions of this article shall not obligate,  
5 directly, indirectly, or contingently, the state or any  
6 subdivision thereof nor empower the authority to levy or collect  
7 any form of taxes or assessments therefor or to create any  
8 indebtedness payable out of taxes or assessments therefor or make  
9 any appropriation for their payment, and such appropriation or  
10 levy is prohibited. Nothing in this section shall prevent or be  
11 construed to prevent the authority from pledging its full faith  
12 and credit or the full faith and credit of a participating  
13 institution of postsecondary education to the payment of bonds or  
14 notes authorized pursuant to this article. Nothing in this  
15 article shall be construed to authorize the authority to create a  
16 debt of the state within the meaning of the constitution or  
17 statutes of Colorado or to authorize the authority to levy or  
18 collect taxes or assessments; and all bonds issued by the  
19 authority pursuant to the provisions of this article are payable  
20 and shall state that they are payable solely from the funds  
21 pledged for their payment in accordance with the resolution  
22 authorizing their issuance or with any trust indenture, mortgage,  
23 or deed of trust executed as security therefor and are not a debt  
24 or liability of the state of Colorado. The state shall not in  
25 any event be liable for the payment of the principal of or  
26 interest on any bonds of the authority or for the performance of

1 any pledge, mortgage, obligation, or agreement of any kind  
2 whatsoever which may be undertaken by the authority. No breach  
3 of any such pledge, mortgage, obligation, or agreement shall  
4 impose any pecuniary liability upon the state or any charge upon  
5 its general credit or against its taxing power.

6 23-15-118. Exemption from taxation - securities law. The  
7 authority is hereby declared to be a public instrumentality of  
8 the state, performing a public function for the benefit of the  
9 people of the state for the improvement of their welfare and  
10 postsecondary educational opportunities. Accordingly, the income  
11 or other revenues of the authority, all properties at any time  
12 owned by the authority, any bonds, notes, or other obligations  
13 issued pursuant to this article and the transfer thereof and the  
14 income therefrom (including any profit made on the sale thereof),  
15 and all mortgages, leases, trust indentures, and other documents  
16 issued in connection therewith shall be exempt at all times from  
17 all taxation and assessments in the state of Colorado. Bonds  
18 issued by the authority shall also be exempt from the "Securities  
19 Act", article 51 of title 11, C.R.S. 1973.

20 23-15-119. Rents and charges. A sufficient amount of the  
21 revenues derived with respect to a facility, except such part of  
22 such revenues as may be necessary to pay the cost of maintenance,  
23 repair, and operation and to provide reserves and for renewals,  
24 replacements, extensions, enlargements, and improvements provided  
25 for in the resolution authorizing the issuance of any bonds or  
26 notes of the authority or in the trust agreement securing the



1 same, shall be set aside at such regular intervals as may be  
2 provided in such resolution or trust agreement in a sinking or  
3 other similar fund, which is hereby pledged to and charged with  
4 the payment of the principal of and the interest on such bonds or  
5 notes as the same become due and the redemption price or the  
6 purchase price of bonds retired by call or purchase as therein  
7 provided. Such pledge shall be valid and binding at the time the  
8 pledge is made and thereafter until satisfied, and the rates,  
9 rents, fees, charges, and other revenues or other moneys so  
10 pledged and thereafter received by the authority shall  
11 immediately be subject to the lien of such pledge without any  
12 physical delivery thereof or further act; and the lien of any  
13 such pledge shall be valid and binding as against all parties  
14 having claims of any kind in tort or contract or in any other  
15 form against the authority, irrespective of whether such parties  
16 have notice thereof. Neither the bond resolution, any trust  
17 agreement, any other agreement, nor any lease by which a pledge  
18 is created need be filed or recorded except in the records of the  
19 authority. The use and disposition of moneys to the credit of  
20 such sinking or other similar fund shall be subject to the  
21 resolution authorizing the issuance of such bonds or notes or to  
22 such trust agreement. Except as may be otherwise provided in  
23 such resolution or such trust agreement, such sinking or other  
24 similar fund may be a fund for all such bonds or notes issued to  
25 finance facilities at a particular institution of postsecondary  
26 education without distinction or priority of one over another;

1 except that the authority in any such resolution or trust  
2 agreement may provide that such sinking or other similar fund  
3 shall be the fund for a particular facility at an institution of  
4 postsecondary education and for the bonds issued to finance a  
5 particular facility and, additionally, may permit and provide for  
6 the issuance of bonds having a lien with respect to the security  
7 authorized which is subordinate to other bonds of the authority,  
8 and, in such case, the authority may create separate sinking or  
9 other similar funds with respect to such subordinate lien bonds.

10 23-15-120. Fees. (1) All expenses of the authority  
11 incurred in carrying out the provisions of this article shall be  
12 payable solely from funds provided pursuant to this article, and  
13 no liability shall be incurred by the authority beyond the moneys  
14 which are provided pursuant to this article; except that, for the  
15 purposes of meeting the necessary expenses of initial  
16 organization and operation until such date as the authority  
17 derives moneys from funds provided pursuant to this article, the  
18 authority may borrow such moneys as may be required for the  
19 necessary expenses of organization and operation. Such borrowed  
20 moneys shall be repaid within a reasonable time after the  
21 authority receives funds provided pursuant to this article.

22 (2) Nothing in this article shall be construed to imply  
23 mandatory participation by an institution of postsecondary  
24 education. When an institution of postsecondary education  
25 chooses to participate, an application for financial assistance  
26 to provide for its facilities shall be made to the authority and

1 shall be accompanied by an initial planning service fee in an  
2 amount determined by the authority. Such initial planning  
3 service fees shall be included in the cost of the facilities to  
4 be financed and shall not be refundable by the authority, whether  
5 or not any such application is approved. In addition to such  
6 initial fee, an annual planning service fee shall be paid to the  
7 authority by each participating institution of postsecondary  
8 education in an amount determined by the authority. Such annual  
9 planning service fee shall be paid on said dates or in such  
10 installments as may be satisfactory to the authority. Such fees  
11 may be used for:

12 (a) Necessary expenses to determine the need for  
13 facilities;

14 (b) Necessary administrative expenses; and

15 (c) Reserves for anticipated future expenses.

16 (3) In addition, the authority may retain, for a negotiated  
17 fee, the services of any other public or private person, firm,  
18 partnership, association, or corporation for the furnishing of  
19 services and data for use by the authority in determining the  
20 need and location of any such facilities for which application is  
21 being made or for such other services or surveys as the authority  
22 deems necessary to carry out the purposes of this article.

23 23-15-121. Conveyance of title - release of lien. When the  
24 principal of and interest on bonds issued by the authority to  
25 finance the cost of facilities or to refinance outstanding  
26 indebtedness of one or more participating institutions of

1 postsecondary education, including any refunding bonds issued to  
2 refund and refinance such bonds, have been fully paid and retired  
3 or when adequate provision has been made to fully pay and retire  
4 the same and when all other conditions of the resolution, the  
5 lease, the trust indenture, and the mortgage, deed of trust, or  
6 other form of security arrangement, if any, authorizing and  
7 securing the same have been satisfied, the authority shall  
8 promptly do all things and execute such deeds, conveyances, and  
9 other documents as are necessary and required to release the lien  
10 of such mortgage, deed of trust, or other form of security  
11 arrangement in accordance with the provisions thereof and to  
12 convey its right, title, and interest in such facilities so  
13 financed, and any other facilities leased or mortgaged or subject  
14 to a deed of trust or any other form of security arrangement to  
15 secure the bonds, to such participating institution of  
16 postsecondary education.

17 23-15-122. Investment of funds. The authority may invest  
18 any funds in obligations of the federal government, the state, or  
19 any municipality of the state or in obligations of agencies of  
20 the federal government; in bonds, notes, certificates of  
21 indebtedness, treasury bills, or other securities constituting  
22 direct obligations of the United States; in certificates of  
23 deposit or time deposits constituting direct obligations of any  
24 bank or savings and loan association in Colorado, such  
25 investments to be made only in those certificates of deposit or  
26 time deposits in banks or savings and loan associations which are

1 insured by the federal deposit insurance corporation or federal  
2 savings and loan insurance corporation, if then in existence, and  
3 not to exceed the maximum of such insurance; or in short-term  
4 discount obligations of the federal national mortgage  
5 association. Any such securities may be purchased at the  
6 offering or market price thereof at the time of such purchase.  
7 The authority may invest its funds with such maturities as the  
8 authority shall determine if such maturities are on a date or  
9 dates prior to the time that, in the judgment of the authority,  
10 the funds so invested will be required for expenditure. The  
11 express judgment of the authority as to the time that any funds  
12 will be required for expenditure or be redeemable is final and  
13 conclusive.

14 23-15-123. Proceeds as trust funds. All moneys received  
15 pursuant to this article, whether as proceeds from the sale of  
16 bonds, notes, or other obligations or as revenues or receipts,  
17 shall be deemed to be trust funds to be held and applied solely  
18 as provided in this article. Any officer, bank, or trust company  
19 with which such moneys are deposited shall act as trustee of such  
20 moneys and shall hold and apply the same for the purposes of this  
21 article, subject to such regulations as this article and the  
22 resolution authorizing the bonds, notes, or other obligations of  
23 any issue or the trust agreement securing such obligations shall  
24 provide.

25 23-15-124. Agreement of the state not to limit or alter  
26 rights of obligees. The state hereby pledges to and agrees with

1 the holders of any bonds, notes, or other obligations issued  
2 pursuant to this article and with those parties who may enter  
3 into contracts with the authority pursuant to the provisions of  
4 this article that the state will not limit, alter, restrict, or  
5 impair the rights vested pursuant to this article in the  
6 authority to acquire, construct, reconstruct, maintain, and  
7 operate any facility or to establish, revise, charge, and collect  
8 rates, rents, fees, and other charges whenever it may be  
9 convenient or necessary to produce sufficient revenues to meet  
10 the expenses of maintenance and operation thereof and to fulfill  
11 the terms of any agreements made with the holders of bonds,  
12 notes, or other obligations authorized and issued pursuant to  
13 this article and with the parties who may enter into contracts  
14 with the authority pursuant to this article. The state further  
15 agrees that it will not in any way impair the rights or remedies  
16 of the holders of such bonds, notes, or other obligations of such  
17 parties until such bonds, notes, or other obligations, together  
18 with interest thereon, interest on any unpaid installment of  
19 interest, and all costs and expenses in connection with any  
20 action or proceeding by or on behalf of such holders, are fully  
21 met and discharged and such contracts are fully performed on the  
22 part of the authority. Nothing in this article precludes such  
23 limitation or alteration if and when adequate provision is made  
24 by law for the protection of the holders of such bonds, notes, or  
25 other obligations of the authority or those entering into such  
26 contracts with the authority. The authority may include this

1     pledge and undertaking for the state in such bonds, notes, or  
2     other obligations and in such contracts.

3             23-15-125. Enforcement of rights of bondholders. Any  
4     holder of bonds issued pursuant to this article or a trustee  
5     under a trust agreement, trust indenture, indenture of mortgage,  
6     or deed of trust entered into pursuant to this article, except to  
7     the extent that his rights are restricted by any bond resolution,  
8     may protect and enforce, by any suitable form of legal  
9     proceedings, any rights under the laws of this state or granted  
10    by the bond resolution. Such rights include the right to compel  
11    the performance of all duties of the authority required by this  
12    article or the bond resolution; to enjoin unlawful activities;  
13    and, in the event of default with respect to the payment of the  
14    principal of and premium, if any, and interest on any bond or in  
15    the performance of any covenant or agreement on the part of the  
16    authority in the bond resolution, to apply to a court having  
17    jurisdiction of the cause to appoint a receiver to administer and  
18    operate the facility, the revenues of which are pledged to the  
19    payment of the principal of and premium, if any, and interest on  
20    such bonds, with full power to pay, and to provide for the  
21    payment of the principal of and premium, if any, and interest on  
22    such bonds, with such powers, subject to the direction of the  
23    court, as are permitted by law and are accorded receivers in  
24    general equity cases, but excluding any power to pledge  
25    additional revenues of the authority to the payment of such  
26    principal, premium, and interest.

1           23-15-126. Bonds eligible for investment. The state and  
2 any county, city, city and county, town, or other political  
3 subdivision or public body and the public officers thereof, all  
4 banks, bankers, trust companies, savings and loan associations,  
5 investment companies, and insurance companies and associations,  
6 and all executors, administrators, guardians, trustees, and other  
7 fiduciaries may legally invest any sinking funds, moneys, or  
8 other funds belonging to them or within their control in any  
9 bonds issued pursuant to this article.

10           23-15-127. Account of activities and receipts for  
11 expenditures - report - audit. The authority shall keep an  
12 accurate account of all its activities and of all its receipts  
13 and expenditures and shall annually, in the month of January,  
14 make a report thereof to its members, to the governor, and to the  
15 state auditor, such reports to be in a form prescribed by the  
16 state auditor. The state auditor may investigate the affairs of  
17 the authority, may severally examine the properties and records  
18 of the authority, and may prescribe methods of accounting and the  
19 rendering of periodical reports in relation to facilities  
20 undertaken by the authority.

21           23-15-128. Federal social security act. The authority may  
22 take such action as it deems appropriate to enable its employees  
23 to come within the provisions and obtain the benefits of the  
24 federal "Social Security Act", as amended.

25           23-15-129. Powers of authority not restricted - law  
26 complete in itself. This article shall not be construed as a



1 restriction or limitation upon any powers which the authority  
2 might otherwise have under any laws of this state but shall be  
3 construed as cumulative of any such powers. No proceedings,  
4 referendum, notice, or approval shall be required for the  
5 creation of the authority or the issuance of any bonds or any  
6 instrument as security therefor unless so provided in this  
7 article; but nothing in this article shall be construed to  
8 deprive the state and its political subdivisions of their  
9 respective police powers over properties of the authority or to  
10 impair any power thereover of any official or agency of the state  
11 and its political subdivisions which may be otherwise provided by  
12 law.

13 23-15-130. Powers in addition to those granted by other  
14 laws. The powers conferred by this article are in addition and  
15 supplementary to, and the limitations imposed by this article do  
16 not affect the powers conferred by, any other law, except as  
17 provided in this article. Facilities may be acquired, purchased,  
18 constructed, reconstructed, improved, bettered, and extended, and  
19 bonds may be issued pursuant to this article for said purposes,  
20 notwithstanding that any other provision of law may provide for  
21 the acquisition, purchase, construction, reconstruction,  
22 improvement, betterment, and extensions of like facilities or the  
23 issuance of bonds for like purposes; and such bonds may be issued  
24 without regard to the requirements, restrictions, limitations, or  
25 other provisions contained in any other provision of law.

26 23-15-131. Annual report. The authority shall submit to

1 the governor and to the general assembly, within six months after  
2 the end of each fiscal year, a report which shall set forth a  
3 complete and detailed operating and financial statement of the  
4 authority during such year. Also included in the report shall be  
5 any recommendations with reference to additional legislation or  
6 other action that may be necessary to carry out the purposes of  
7 the authority.

8 SECTION 2. Effective date. This act shall take effect July  
9 1, 1981.

10 SECTION 3. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

BILL 12

HOUSE JOINT RESOLUTION NO.

1 WHEREAS, The interim Committee on Education, in its study of  
2 alternative financing mechanisms for institutions of higher  
3 education has articulated a number of concerns related to the  
4 quality of education at such Colorado institutions; and

5 WHEREAS, The Colorado School of Mines has embodied many of  
6 the aspects of educational quality which the Committee has  
7 determined to be of importance to all programs in the state; and

8 WHEREAS, These aspects of quality have been identified by  
9 Dr. Guy T. McBride, Jr., President of the Colorado School of  
10 Mines, as the following: Sound infrastructure; competent  
11 faculty; motivated students; and a reputation for quality and  
12 excellence on campus; now, therefore,

13 Be It Resolved by the House of Representatives of the  
14 Fifty-third General Assembly of the State of Colorado, the Senate  
15 concurring herein:

16 That we, the members of the Fifty-third General Assembly of  
17 the State of Colorado, do urge the Colorado Commission of Higher  
18 Education in cooperation with the governing boards to undertake  
19 an evaluation of all public institutions of higher education in  
20 Colorado to determine which of those institutions meet the  
21 criteria set forth in this resolution and which do not and to  
22 ascertain the reasons for such successes and failures.

23 Be It Further Resolved, That the Colorado Commission on  
24 Higher Education shall report the findings of such an evaluation  
25 to the General Assembly, together with the Commission's  
26 recommendations, by January 1, 1983.

LEGISLATIVE COUNCIL  
COMMITTEE ON TRANSPORTATION

Members of the Committee

Rep. William Hilsmeier,  
Chairman  
Sen. Tilman Bishop,  
Vice-Chairman  
Sen. John Beno  
Sen. Ralph Cole  
Sen. Martin Hatcher  
Sen. Maynard Yost

Rep. John Davoren  
Rep. William Becker  
Rep. Jeanne Faatz  
Rep. E.E. "Casey" Hayes  
Rep. Stanley Johnson  
Rep. Ray Powers  
Rep. James Reeves

Council Staff

Larry Thompson  
Senior Analyst

Elizabeth Vaos  
Research Assistant

Senate Joint Resolution 26 assigned to the Committee on Transportation the following interim studies:

- A study of access to state highways in Colorado, including, but not limited to, a study of the issues presented by the granting of variances to the highway access code.
- A study to continue the work of the 1979 interim Committee on the State Rail Plan and rail passenger service on the Western Slope and Front Range.
- A study of the alternatives to the gross ton-mile tax for use by the State of Colorado in assessing and collecting highway use taxes.
- A study on a state agency transportation system to determine the alternatives available to the current system of random methods by maximizing the transportation resources which are funded by state funds and to determine the cost advantages of providing one uniform state transportation system for agencies and programs of state government.
- A comprehensive study of transportation systems in the State of Colorado, including, but not limited to, the following:
  - An overview of all modes and systems of transportation, including travel by rail, air, and motor vehicle;
  - An examination of the highway system in this state;
  - The possibility and feasibility of relocating major north-south railroad lines away from front-range urban areas;
  - The possibility and feasibility for the State of Colorado to acquire, lease, or otherwise make plans for discontinued railroad lines and rights-of-way, with a specific analysis of alternatives for the state to examine in order to provide railroad service for those persons formerly served by the Rock Island Railroad; and
  - The financing of all such transportation systems in Colorado and the possibility and feasibility of financing such systems through the use of state moneys rather than federal moneys.

The committee determined that its first priority of study this interim would be to focus on revisions and alternatives to the gross ton-mile tax. The second priority would be to review and amend the proposed Highway Access Code which had been referred to the committee after its rejection by the House Transportation and Energy Committee and the Senate Transportation Committee during the 1980 session. Although not considered priority topics for consideration this interim, the following subjects were reviewed: 1980 updates to the State Rail Plan, the need for a new regional airport or expansion of Stapleton International Airport, and an assessment of highway finance in Colorado. Time constraints did not permit the committee to study or make recommendations on all of the subjects with which it had been assigned.

### Gross Ton-Mile Tax

In conducting its review of the gross ton-mile tax, the committee reviewed the history of the tax in Colorado and the methods of motor carrier taxation in the other states.

A substantial amount of testimony was given to the committee on the theory behind and operations of the gross ton-mile tax. Comments on the tax were solicited from the Department of Revenue which administers the tax, as well as representatives of a number of intrastate and interstate trucking concerns. Among the organizations addressing the committee were the following: Adolph Coors Company, Independent Truckers Association, Colorado Motor Carriers Association, Colorado Farm Bureau, and Colorado Grain and Feed Dealers Association. Testimony indicated a wide variance of opinions among representatives of the Department of Revenue and the trucking industry as to the equity and effectiveness of the gross ton-mile tax.

### Historical Perspective

Taxes on commercial carriers operating in Colorado were first levied in 1927. The tax was set at five mills per mile on each ton of freight carried and one mill per mile on each paying passenger.

In 1931, the five mills per mile tax was extended to certain classes of commercial carriers, and extra permit fees were levied on other classes of commercial carriers. This level of taxation remained in effect until 1935 when it was reduced to three mills per mile, and in 1937, the tax was further reduced to two mills per mile. However, the tax of one mill per passenger-mile remained in effect.

In 1955, the present gross ton-mile tax statute was enacted by the Colorado General Assembly. The gross ton-mile tax law differed from the net ton-mile tax in that the base tax of two mills per mile remained in effect, but an additional eight-tenths mill per ton-mile was assessed on the empty weight of the vehicle, the empty weight tax

to be paid whether the truck is loaded or empty.

When initially enacted (in 1927) the administration of the tax was a responsibility of the Public Utilities Commission (PUC), while the actual operation of the ports of entry was assigned to the State Highway Patrol. However, in 1955 when the Colorado General Assembly enacted the gross ton-mile statute, it was determined that neither the Public Utilities Commission or the State Patrol should fulfill the role of tax collector. Thus, in 1955, the Department of Revenue was designated as the single agency responsible for administration (including management of the ports of entry), collection, and enforcement of the gross ton-mile tax.

### Truck Taxes in Other States

There are three main types of truck taxes, registration fees, motor fuel taxes, and special motor carrier taxes. Motor fuel taxes and registration fees are paid by all motorists. Special motor carrier taxes, often referred to as "third structure taxes" are applicable specifically to commercial carriers. The third structure tax used in Colorado is based solely on vehicle-weight and mileage traveled and is applicable to commercial trucks over 6,500 pounds gross vehicle weight (this increases to 10,000 pounds beginning in 1981) only.

The ton-mile tax outlined above is not universally applied in all states. Several methods are utilized in taxing motor carriers in other states. States other than Colorado which impose some form of a gross ton-mile tax are: Idaho, Mississippi, New Mexico, New York, Oregon, and Wyoming. However, the most common of the other types of the so-called "third structure taxes" are taxes based on gross receipts (levied in Arizona, Indiana, Maryland, North Carolina, and Pennsylvania) and taxes based solely on vehicle mileage (levied in Ohio, Oregon, and South Carolina). Other taxes levied include increased registration fees based on empty weight or gross weight, excise taxes, privilege fees, highway compensation fees, and taxes on the gross income of motor carriers.

Of particular interest to the committee was the system used in the state of Kansas. Kansas provides for registration fees for motor carriers based on the gross weight of the truck-tractor. There is a two-tier system of registration fees. A separate fee schedule is provided for vehicles used in local delivery or not traveling more than 6,000 miles in a year. Such vehicles pay a substantially lower registration fee than those vehicles traveling more than 6,000 miles in a year. The interest in the Kansas system resulted in the committee's review of a draft bill based on the Kansas statutes. This registration fee bill, and committee recommendations relating thereto, are discussed on pages 131 and 132 of this report.

A review of commercial carrier (third structure) taxes in 47 other states is provided on pages 177 through 188 -- Appendix A -- of this report.

## Pro and Con Arguments Regarding the Gross Ton-mile Tax

The gross ton-mile tax is based on the theory that it provides greater tax equity than other forms of highway user taxes. That is, a given truck, owned by one company which drives many miles a year with a certain load, would pay more tax in a year than the same type truck owned by another company which drives less miles with the same load. Tax burden is determined entirely by truck weight and usage.

Proponents of the ton mile tax maintained that the purpose of such taxes is to make each carrier pay an amount which, as nearly as possible, approximates the wear and tear on the highways caused by the commercial use of their vehicle. Other major arguments used by supporters of the gross ton-mile tax are as follows:

- The tax is assessed on a measurable unit -- tons of weight moved a specific number of miles.
- The tax distributes the tax burden according to actual highway use. A heavy load carried many miles is taxed proportionately more than a light load carried only a few miles.
- The tax is productive in terms of gross amounts of revenues raised. In 1979, total GTM tax collections were \$22,049,272.
- Since highway damage is closely linked to vehicle weight and mileage, the ton-mile tax more closely charges for damage than other third-structure taxes.

Several representatives of the trucking industry advocated repeal of the tax. They suggested replacing it with an alternative third-structure tax such as graduated registration fees, a straight mileage tax, or increased fuel taxes. Among the arguments offered by opponents of the gross ton-mile tax were the following:

- The tax is inequitable because all truckers do not comply with the law. Opponents of the tax argued that many truckers, particularly out-of-state truckers and those in-state truckers who have not established accounts with the Department of Revenue, avoid ports of entry where the ton-mile tax is collected.
- Colorado truckers are subjected to paying retaliatory taxes in other states since several states do not have reciprocal agreements with Colorado. Reciprocal agreements provide that the truckers from the state granting the exclusion from paying third structure taxes receive the same tax exempt privileges in the states in which there are such agreements. Ton mile tax opponents allege that Colorado does not have reciprocal agreements with several states because of the administrative complexity and high costs of the gross ton-mile tax.
- The tax imposes undue burdens on truckers because of the excessive amount of time required for reporting and filing.



- The tax is inefficient in terms of dollars collected versus dollars spent for administration. On the average, it costs the Department of Revenue \$1.70 to collect each \$100 of tax. If costs are included for operating the ports of entry, it costs in excess of six percent of revenues to collect the ton-mile tax. Opponents argue that administrative expense for straight or graduated registration fees would be significantly lower than the costs for collecting the gross ton-mile tax.
- Because of the ton-mile tax, truckers are required to receive clearances at ports of entry throughout the state. There is often a considerable delay at ports of entry before clearances can be obtained. The amount of down time experienced by truckers eventually is reflected in the cost of goods to the consumer.

#### Tax Study Group Recommendations -- a Straight Mileage Tax

In 1979 a study group consisting of employees of the Colorado Department of Revenue, the Office of the Attorney General, representatives of the Colorado Bar Association, the Colorado Society of Certified Public Accountants, and the National Federation of Independent Business was established to study simplification of all state taxes and state tax procedures. The objective of the study was to come up with simpler and more efficient methods of tax compliance without making any significant changes in existing tax burdens.

Department of Revenue officials reported to the committee that this special study group recommended replacing the ton-mile tax with a straight mileage tax and that the mileage tax be combined with the existing registration fees and special fuel taxes. The mileage tax would be based on the declared gross vehicle weight of each truck and truck-tractor. Different tax rates would be assessed for gasoline and diesel-operated units. Department spokesmen concluded that such a tax system would greatly simplify their record-keeping and the need for port of entry inspections would be substantially reduced. However, they emphasized the opinion that such a system would be less equitable than the gross ton-mile tax.

#### Proposed Legislation Relating to Graduated Registration Fees

At the committee's September 16 meeting the chairman appointed a subcommittee to assess the effectiveness and equity of alternatives to the gross ton-mile tax. The subcommittee recommended to the full committee a bill which would have eliminated the ton mile tax and replaced it with increased registration fees.

The proposed draft (which was subsequently amended by the committee) would have established a three tier structure of registration fees. Separate fee categories would be established for vehicles

travelling 10,000 miles in a year or less, vehicles travelling more than 10,000 miles in a year but less than 35,000 miles in a year, and vehicles travelling 35,000 or more miles in a year. Within each category, the registration fees would be graduated based upon gross vehicle weight. Specific dollar figures for the registration fees for each of the categories of vehicles were not included in the bill because time did not permit the Department of Revenue to provide such information nor did time allow the department to complete an overall analysis of the fiscal impact thereof.

A variety of opinions were offered on the proposed bill. For example, advocates of the increased registration fee proposal offered the following arguments:

- The cost of administering an increased registration fee is less than that for the gross ton-mile tax. Although ports of entry could not be entirely eliminated, the function of the ports would probably be changed and administrative costs for the port system might be reduced with the implementation of a registration fee system.
- A carrier's tax liability is always known in advance, both by the state and the carrier.
- Increased registration fees may ease reciprocity and retaliatory tax problems. A number of states use registration fees as their third-structure tax. Colorado, once it eliminates the gross ton-mile tax, should be able to quickly enter into additional interstate reciprocity agreements.
- The tax is assessed on a measurable unit -- weight of the vehicle.

Arguments used by opponents of increased registration fees in-lieu of the ton-mile tax included the following:

- The amount of the fees is not an indication of actual highway use. The tax is regressive in the fact that vehicles of equal weight pay the same tax, although one may be driven a substantially greater number of miles in a year than is the other vehicle.
- The fees are assessed only on vehicle weight. Economic activity of the carrier, or differences in highway costs per mile, are not taken into account.
- The fees will probably shift part of the tax burden from the high mileage, large, usually fully-loaded vehicle to the lower mileage, smaller, often partially-loaded vehicle.

## Committee Recommendations

Committee members voted not to recommend the increased registration fee bill for consideration by the 1981 General Assembly. The committee believes that the concept of increasing registration fees to replace the gross ton-mile tax should be studied further during the 1981 session. Because specific dollar figures need to be available for each of the categories of vehicles which would be affected by the registration fee proposal before further consideration, the Department of Revenue was requested to prepare a detailed fiscal analysis of the proposed bill. This analysis is to be provided to the members of the General Assembly at the beginning of the 1981 session. The committee urges the General Assembly to give careful consideration to the pros and cons of retaining the gross ton-mile tax compared to increasing registration fees before making a final determination thereon.

The committee makes no recommendation regarding the straight mileage tax suggested by the 1979 tax study group, since members of the committee generally favor further examination of either retaining the gross ton-mile tax or replacing it with an increased registration fee system based in part on the Kansas statutes for motor carrier taxation.

Although the committee does not take a position on retention of the gross ton-mile tax, several bills to improve the administration of that tax have been recommended by the committee for consideration by the 1981 General Assembly. The purpose of these bills is to: relieve some of the problems of reporting and filing of ton-mile tax liability; simplify clearances at ports of entry; and reduce administrative costs of and simplify procedures in the Department of Revenue.

Eliminate Passenger-Mile Tax -- Bill 13. Bill 13 will eliminate the passenger-mile tax for buses registered in Colorado. The requirement that buses registered in Colorado stop at port of entry weigh stations will also be eliminated. In lieu of the passenger-mile tax, a schedule of registration fees, based on vehicle seating capacity, will be imposed. The fee schedule is set to ensure that the same revenue will be generated under the new fee system as was derived from the passenger-mile tax.

Testimony given by the Department of Revenue indicated that the existing one mill passenger-mile tax is difficult for the department to administer and places an extra burden for record-keeping on charter, sightseeing, and scheduled intra-state bus operations. For taxation purposes, the department now requires all buses, limousines, and taxis, that are not operating on scheduled interstate runs, to check through a port of entry weigh station. Bill 13 will result in an overall reduction in clearances which must be given by ports of entry.

Reporting Requirements for Ton-Mile Tax -- Bill 14. To alleviate problems encountered by truckers in filing reports and paying ton-mile taxes to the Department of Revenue, Bill 14 will allow owners and operators of motor vehicles, which have a ton-mile tax liability,

(no specific amount is specified) the option of paying the tax and filing the required reports on a quarterly, rather than a monthly, basis.

Simplify Port of Entry Clearances -- Bill 15. Testimony to the committee by representatives of the trucking industry indicated that there are significant delays before clearances to leave are given at several ports of entry. Such delays result in increased costs for the trucking industry; a cost which is in turn passed on in the form of higher prices to the consumer.

Bill 15 simplifies clearances at ports of entry for owners and operators of motor vehicles which have negotiated factor agreements with the Department of Revenue. Each carrier can, under current law, negotiate an agreement with the Department of Revenue establishing procedures for payment of ton mile taxes directly to the department. The liability of each owner or operator is determined based on the weight of the motor vehicle combined with a determination of the vehicle's average cargo carried during a tax period. The bill provides that carriers which use the negotiated factor method will be provided with a decal or other form of a distinct marking which will be affixed to each vehicle. Vehicles which bear such identification will not be required to secure a gross ton-mile clearance at a port of entry unless a port officer orders that said clearance be obtained.

The bill also provides for the repeal of Section 42-8-106 (1), C.R.S. 1973 which will give the executive director of the Department of Revenue the authority to require from truckers only the absolute minimum of information needed for audit purposes.

Ports of Entry Reduction -- Bill 16. Bill 16 will provide for a reduction in the number of permanent port of entry weigh stations, from twenty-one stations to no more than eleven. In addition it provides that on and after July 1, 1983, there will be not less than four mobile port of entry weigh stations.

A reduction in the number of permanent ports of entry will alleviate one of the alleged weaknesses of the ton-mile tax, namely, high administrative costs for collecting the tax. Furthermore, the committee believes that a greater emphasis should be placed on the use of mobile ports of entry in enforcement of the gross ton-mile tax statutes.

### Highway Access Code

In the 1979 session, House Bill 1059 was enacted into law. The bill requires the development of a comprehensive code governing access to all state highways.

## Purpose and Provisions of House Bill 1059

Procedurally, House Bill 1059 (now cited as section 43-2-147, Colorado Revised Statutes 1973, as amended) requires that the State Highway Commission, in consultation with units of local government, prepare and submit a state highway access code to the General Assembly for its review and approval. The code is to provide for a comprehensive approach to the permitting of access to the state highway system. The code will establish criteria and procedures for the Department of Highways and appropriate local authorities to require the reconstruction, relocation, or closure of nonconforming driveways constructed prior to the effective date of the access code. After the effective date of the code, no person shall construct a driveway providing access from adjoining property to a state highway prior to issuance of an access permit. The bill also provides that no person may submit an application for subdivision approval to a local authority unless all lots thereon will have conforming access to state highways.

The effective date of the code is uncertain, since approval by the Senate Committee on Transportation and the House Committee on Transportation and Energy is required before the code can be formally adopted by the Highway Commission.

## Consideration by General Assembly of Access Code

To meet the requirements of the act, the Highway Commission prepared and submitted a proposed access code to the House Transportation and Energy Committee and the Senate Transportation Committee for their consideration during the 1980 session. Several meetings on the access code were conducted by those committees. At those meetings, several persons testifying on the code argued in favor of rejecting the code and suggested that it be revised.

Among the arguments supporting the rejection of the code during the 1980 session were: more input from local officials and affected persons regarding standards provided in the code was needed; the code, as then written, could possibly have been the subject of numerous court cases resulting from the code's alleged insensitivity to the constitutional rights of property owners; and, the code allegedly failed to recognize the unique nature, needs, and problems of each parcel of property.

The committees of reference rejected the code and directed that it be revised by the Highway Commission. The code was subsequently referred to the interim Committee on Transportation for review and revision.

## Committee Review of Highway Access Code

Early in the 1980 interim, the Highway Commission substantially revised the Highway Access Code. Meetings were held throughout the state to obtain input from affected municipal and county officials on the proposed standards and regulations. Representatives of thirty-eight cities and towns and spokesmen for twenty-seven Colorado counties provided comments on the proposed code.

Several committee meetings were devoted to review of the amended code. Several technical amendments to the code were suggested by the committee and have been incorporated by the Highway Commission. The following substantive amendments to the code were also recommended:

1. The proposed access code allows local governments to submit, for Highway Commission approval, requests for changes in access category assignments. Each state highway is placed into one of five categories of access control on a segment by segment basis. The committee suggested that all "reasonable" local government requests, relating to access category assignments, receive a favorable recommendation from the department and be transmitted accordingly to the Highway Commission. For a description of the categories see section 2.2 (1) and (3) of the code entitled Access Categorization of State Highways.
2. The access code gives local governments the authority to issue access permits to state highways within their jurisdiction. The committee recommended that written concurrence of the Department of Highways be required before such permits are issued by local governments.
3. The proposed code would have allowed the Department of Highways to install barriers across or remove any driveway providing direct access to a state highway which is constructed without an access permit. The committee recommended that such authority be given to the Department of Highways only after the effective date of the code.
4. Section 2.10 of the proposed code addresses procedures for development of access control plans. Said plans must indicate existing and future access locations and all roadway access design elements, including traffic signals, that are to be modified and reconstructed, relocated, removed, or added. The proposed access code had suggested that public meetings be held during the development of access control plans while the committee recommendation was that public hearings are required during the plan's development.

Each of the amendments suggested by the committee were approved by the Highway Commission and were incorporated into the revised Highway Access Code.

### Committee Conclusions -- Highway Access Code

The committee recommends favorably, for consideration in the 1981 session by the House Transportation and Energy Committee and the Senate Transportation Committee, the proposed Highway Access Code as amended by the committee. The Committee on Transportation also recommends the following bills for consideration by the 1981 General Assembly.

### Final Action on Access Permits -- Bill 17

Bill 17 will clarify the time limitations for local authorities and the Department of Highways to act upon requests for access permits by providing that local authorities must act within forty-five days after an access permit has been requested, or such permit shall be deemed issued subject to written approval of the Department of Highways. Fifteen days after notice by the local authority, the highway department must act upon the permit. Failure to act within that time-frame will result in automatic approval of the permit request. In certain cases, local authorities may delegate their authority to the Department of Highways to administer access permits. In such an instance, the Department of Highways is required to act upon requested access permits within forty-five days of request.

### General Assembly Consideration of Access Code -- Bill 18

Current statutes are vague concerning the options given the General Assembly for considering the code during the 1981 session. It is not clear under provisions of House Bill 1059 (1979) if the committees of reference will have authority to modify or reject the Highway Access Code or what would happen should no action be taken.

To clarify this, and other problems, Bill 18 is recommended. The bill will require action by the House Transportation and Energy Committee and the Senate Transportation Committee on the code before the end of the 1981 session. Failure to act will be deemed approval of the code. The bill will also allow for rejection of the code in the next session if experience with its operation indicates a need for its repeal. If the code is rejected, Bill 18 provides that it will be transmitted to the appropriate 1981 interim committee for necessary changes and be re-submitted for consideration during the 1982 session.

### 1980 Update of State Rail Plan

During the 1980 interim, the Committee on Transportation continued its oversight of the progress of the Department of Highways in developing the 1980 update to the State Rail Plan.

### Budget for 1980 Update of State Rail Plan

As provided in section 803 of the Federal Railroad Revitalization and Regulatory Reform Act of 1976 (4R Act), federal matching funds are provided by the Federal Railroad Administration (FRA) for planning functions to update each states' rail plans. The Department of Highways, which as a result of the enactment of Senate Bill 19 (1980 session), is the agency designated to receive those funds, has identified the following planning activities in their 1980 budget:

|  | <u>Estimated Budget</u> |
|--|-------------------------|
| 1) Complete 1980 rail plan update;   | \$ 3,000                |
| 2) Monitor rail abandonment applications<br>(Rock Island activities);                  | 8,000                   |
| 3) Benefit-cost development, branch line analysis,<br>rail development projects;       | 42,000                  |
| 4) Update grade crossing analysis-prioritize<br>separation projects;                   | 6,000                   |
| 5) Feasibility study of rail relocation around one<br>community (Walsenburg, Colorado) | 15,000                  |
| 6) Auto-train market analysis  | 30,000                  |
| 7) Rail passenger service analysis   | 15,000                  |
| 8) Overall program monitoring (administrative costs)                                   | <u>6,000</u>            |
| Total possible planning costs  | \$125,000               |

### Rock Island Railroad

The committee was given several briefings on the efforts of the Department of Highways, other state agencies, county officials, and affected shippers to develop the best strategies to retain rail service along the abandoned Rock Island line.

Background. Although the Rock Island filed for bankruptcy in March, 1975, they continued to operate, with the help of substantial loans, until August, 1979. In September, 1979, the Rock Island was declared "cashless" by the Interstate Commerce Commission (ICC). For a short period of time, the Kansas City Terminal Railway, under a directed service order from the ICC, operated the Rock Island lines. On March 23, 1980, the directed service order expired and almost all rail service ceased on the Rock Island system in Colorado.

The Chicago, Rock Island, and Pacific Railroad, commonly known as the Rock Island, operated almost 7,000 miles of railroad in thirteen states including 258 miles in Colorado. The Rock Island owns tracks in east-central Colorado. One of their main lines goes from Colorado Springs to Limon, then easterly through Burlington into Kansas.



At present, only the following four segments of Rock Island lines are being operated under a directed service order by other carriers:

- Duban area of northeast Denver -- four miles are operated by the Cadillac and Lake City Railroad;
- Roswell area of Colorado Springs -- six miles are operated by Denver and Rio Grande Western Railroad;
- Within Limon -- one-half mile is used by the Union Pacific Railroad; and
- Siebert to Kansas line -- forty-four miles of Rock Island lines are operated by the Burlington Northern Railroad.

Short term problems. This summer there was an estimated wheat crop of over thirteen million bushels in the Colorado counties formerly served by the Rock Island. A lack of rail service to transport the wheat to market was a major concern to wheat growers in Eastern Colorado. In response to this problem, The committee was notified by the Department of Highways of the adoption by the United States Congress (in May 1980) of the Rock Island Railroad Transition and Employee Assistance Act (Public Law 96-254). This act authorized the Interstate Commerce Commission to direct rail service over the Rock Island Railroad lines if the Secretary of the United States Department of Transportation certified the existence of a transportation emergency. On June 6, the interim Committee on Transportation sent a letter to Transportation Secretary, Mr. Neil Goldschmidt (the letter is included in this report as Appendix B) requesting Secretary Goldschmidt to certify that a transportation emergency exists in the Rock Island corridor from Limon east to the Kansas line. A similar letter was sent to Mr. Goldschmidt on the same date by Governor Richard Lamm.

On July 28, 1980, the Department of Highways sent a formal application to the Federal Railroad Administration (FRA) asking that they make the necessary findings to require the ICC to order directed service at the earliest possible date. The Burlington Northern applied for and received a service order from the Commission to provide rail service between Siebert, Colorado, and Gem, Kansas, from September 20, 1980 to November 30, 1980. The Rock Island stations at Limon (Limon Co-op only), Genoa, Arriba, and Flagler did not receive rail service under the Burlington Northern service order. The Union Pacific Railroad recently proposed to the Interstate Commerce Commission that they be allowed to provide rail service to the Limon Co-op elevator only and to provide a discount for trucking from the other three stations.

The committee was informed that if the Commission approves the Union Pacific proposal, the Department of Highways will agree to accept the Burlington Northern service from Siebert easterly and the Union Pacific proposal from Limon to Flagler as a substitute for the

directed rail service requested in the July 28, 1980, application to the Federal Railroad Administration.

Long-term problems. The Department of Highways pointed out that there is, at present, no solution to the problem of retaining permanent rail service on the Rock Island lines in Colorado. There are, however, several possibilities for purchase of the Rock Island lines. For example, in the counties of El Paso, Elbert, Lincoln, and Kit Carson, shippers and county officials are exploring the possibility of forming an Eastern Colorado Port Authority to purchase and rehabilitate the Rock Island lines. The Cadillac and Lake City Railroad has had periodic negotiations with the Rock Island trustee to purchase and operate the Rock Island line between Colorado Springs and Limon.

Department of Highways spokesmen stated that they will keep the committee apprised during the 1981 session of prospects for a long-term solution to problems of providing continuous rail service on the Rock Island lines.

#### Railroad Rehabilitation Projects

The Railroad Revitalization and Regulatory Reform Act (commonly called the 4R Act or the "Quad R Act") provides, among other things, financial assistance to states to reduce the impacts on communities of rail line abandonments. 1978 amendments to that act expanded the area of project eligibility and created new types of projects that could receive financial assistance. For fiscal year 1980, the State of Colorado is eligible to receive \$805,085 of federal funding for rail service assistance. The Department of Highways allocated the rail service assistance money in the following manner:

- 1) Applicant: City of Alamosa  
Description: 3,000 feet of new rail spur into industrial park in Alamosa  
Funds Granted: \$196,000.00 federal funds
- 2) Applicant: Cheyenne County Co-op Association  
Description: 25 car rail spur and loadout facilities one mile west of Cheyenne Wells, Colorado  
Funds Granted: \$240,000.00 federal funds
- 3) Applicant: Mockelmann/Broyles Grain Company  
Description: 25 car rail spur and loadout facilities in Cheyenne Wells, Colorado  
Funds Granted: \$227,000.00 federal funds
- 4) Applicant: Snell Grain Company  
Description: Loadout facilities and rail car mover in Hugo, Colorado  
Funds Granted: \$104,000.00 federal funds

The committee and the Department of Highways preferred to utilize such funds to provide some solution to the Rock Island situation, but Highway Department representatives explained that lines on the bankrupt Rock Island Railroad are not eligible for rail service assistance funds because those lines are considered to be abandoned.

#### Abandoned Lines

Testimony on possible rail line abandonments indicated that there are a total of almost one hundred miles of railroad lines in Colorado considered potentially subject to abandonment. Those lines are:

| <u>Railroad</u>                       | <u>Location</u>                    | <u>Mileage</u> |
|---------------------------------------|------------------------------------|----------------|
| Atchison, Topeka, and Santa Fe (ATSF) | Wilson Junction to Lamar           | 4.36           |
| ATSF                                  | Hartman to McClave                 | 36.48          |
| ATSF                                  | Wiley to Big Bend                  | 4.17           |
| ATSF                                  | Cheraw to Hayes Junction           | 9.74           |
| ATSF                                  | Hayes Junction to Swink            | 1.75           |
| Colorado and Southern Railway         | Fort Collins to Rex                | 17.09          |
| Union Pacific (UP)                    | Greeley East for 2.26 miles        | 2.26           |
| UP                                    | 2.26 miles East of Greeley to Gill | 8.60           |
| UP                                    | Hebron to Walden                   | 15.00          |

#### Auto-Train

Auto-Train is a company that provides a mode of passenger travel which offers a combination of the flexibility and convenience of the automobile with the comfort and economics of the train. Each train includes enclosed bi-level railroad auto-rack cars, coaches equipped with reclining seats, sleeping cars containing staterooms, lounge-restaurant cars, and cars containing recreational facilities for both adults and children. The automobile driver and his passengers board the auto-train at a point-en-route to their destination. While boarding the Auto-Train, their vehicle is loaded on an auto-rack car.

There is a possibility that Auto-Train service would be provided from Chicago to Denver. The service would capitalize on the ski

business in the winter and tourism in the summer.

A contract was signed by R. L. Banks and Associates, Inc., (a consulting firm) to complete a market study to determine the actual interest in Auto-Train service. Interviews will be conducted at ski areas in January, 1981 and with tourists during the summer months to determine possible interest in Auto-Train. The Auto-Train analysis is expected to be completed in October or November of 1981.

### Aviation Needs in Denver Metro Area

In an effort to begin a review of the state's overall transportation problems, two committee meetings were devoted to a review of the status of Stapleton International Airport and the feasibility of construction of a new airport. A number of reports relating to future airport development at Stapleton and the site selection process for a new regional airport were reviewed. Testimony was also solicited on the pros and cons of expanding Stapleton International Airport as opposed to building a new regional airport. Representatives of the following groups testified to the committee: Cities of Aurora and Commerce City; Arapahoe and Adams Boards of County Commissioners; Denver Regional Council of Governments, Stapleton International Airport; Denver Chamber of Commerce; and Colorado Forum (an organization of major corporations concerned with public policy issues affecting Colorado).

To obtain a better understanding of issues discussed at a previous meeting, the committee toured the Stapleton Tower; the Rocky Mountain Arsenal, which is a possible site for expansion of Stapleton; and went on a bus tour to the proposed regional airport site near Bennett, Colorado.

Development of a new air carrier airport. Representatives of the Denver Regional Council of Governments (DRCOG) provided a progress report on the "Metro Airport Study" for the Denver region. The study, which is scheduled to be completed in September, 1981, has major objectives of selecting a site for a new airport on the assumption that all air carrier operations will be transferred from Stapleton International Airport to a new airport, and recommending an institutional arrangement and implementation program for planning and construction of a new regional airport.

The following are possible sites for development of a new regional airport:

1. Rocky Mountain Arsenal. The Rocky Mountain Arsenal along with land slightly to the east of the Arsenal comprise one possible site. It may be necessary to acquire land both to the east and north of the Arsenal for airfield construction and to assure land use compatibility in high noise exposure areas.

2. A. East of Rocky Mountain Arsenal. If an airport would be located east of the Rocky Mountain Arsenal, it could be operated completely independently of Stapleton International Airport. Three east-west runways and three north-south runways could be located so that all four of Stapleton's runways could remain in operation.  
  
B. East of Barr Lake. The western boundary of this site would be east of Barr Lake. Runways at this proposed site would be oriented in a north-south direction. The airport would be located west of the Box Elder Creek excluded area. Note: This site is a combination of the land areas described in site number 2A above.
3. Northeast of Watkins and Northwest of Bennett. This proposed site is located east of Box Elder Creek and west of Kiowa Creek. The Bennett site is located the furthest from downtown Denver and encompasses the site of the proposed Adams County airport.

Advocates of constructing a new regional airport suggested that the design of Stapleton International Airport is archaic and that the costs for needed expansion are prohibitive. They noted that the only area into which Stapleton can be expanded is the adjoining Rocky Mountain Arsenal. Among the disadvantages cited for airport expansion into the Arsenal were: the United States Army is reluctant to sell any or all of the Arsenal land; several years would be required for removal of chemical contamination at the Arsenal; and, there would be severe noise impacts on surrounding residential areas if Stapleton would be expanded into the Arsenal.

A substantial majority of the persons testifying in favor of a new airport voiced support for the site near Bennett. They pointed out that noise impacts of an airport near Bennett would be substantially less than the noise caused by air traffic at and near to Stapleton. In addition, locating the airport near Bennett would separate the airport from other air traffic operations at smaller airports in the Denver metro area.

Development and expansion of Stapleton. A review of the Airport (Stapleton) Master Plan was provided to the committee. The plan which is being conducted by the consulting firm of Peat, Marwick, Mitchell and Co. has the primary objective of determining the improvements needed to make Stapleton International Airport function to the year 2000. Assisting in plan development is a Master Plan Advisory Committee composed of representatives of communities adjacent to Stapleton, industry groups, and aviation representatives. The advisory committee is charged to review and evaluate the findings and recommendations in the Airport Master Plan. The study has determined that any runway development required to meet turn-of-the-century needs must be located on land which is essentially within the present airport boundary. Another study conclusion is that adoption of the study

does not represent a commitment to keep Stapleton in operation until the year 2000.

Persons who spoke in favor of continuation of Stapleton as the major air carrier airport in the Denver metro area acknowledged that substantial airport expansion will be necessary within the next twenty years. The only area suggested for expansion was the Rocky Mountain Arsenal.

Persons favoring Stapleton noted that for a new airport to be in place by the year 2000 the cost would be approximately five billion dollars (if a seven percent annual increase in construction costs were assumed). Studies have shown that airport employees prefer living close to their livelihood. A number of hotels, restaurants, and many support operations are located in close proximity to, and are dependent upon, airports. Commercial and residential growth would have to commence immediately on property adjoining the site for construction of a new airport. Proponents of Stapleton International Airport pointed out that siting an airport twenty miles further from downtown Denver (the Bennett site) would result in an increase in motor vehicle travel costs of approximately \$175 million annually. Extra fuel consumption annually would amount to almost twenty-six million gallons.

Committee conclusions. The committee makes no recommendations regarding the expansion of Stapleton International Airport or the construction of a new regional airport. The committee believes that the Airport Master Plan and the Metro Airport Study, both of which are being conducted by the consulting firm of Peat, Marwick, Mitchell and Co., must both be completed before definitive conclusions and recommendations can be offered on those issues.

### Highway Finance

Representatives of the Department of Highways and the Colorado Highway Users Conference presented a considerable amount of information to the committee regarding the condition of Colorado's highways and the status of the Highway Users Tax Fund. Testimony indicated that Colorado has a deteriorating road system and, even with the measures passed in 1980, needs additional funds. An indication of the state's deteriorating road systems is that thirty-three percent of Colorado's roads, or 3,008 miles, were rated in critical or substandard conditions in 1979. According to federal standards, 190 bridges on the state highway system are now inadequate and an additional 281 bridges may be placed in this category during the next ten years.

Highway finance problems. The rapid rate of highway deterioration is severely affecting the highway funding program in this state. Several factors contribute to Colorado's highway finance problems. As a result of inflation, the buying power of highway dollars has been reduced by more than half since 1967, and increases in highway revenues have not caught up with rising costs. Gasoline consump-

tion has been reduced due to more fuel efficient vehicles and the implementation of energy conservation measures. These have resulted in a decrease of 1980 motor fuel tax revenues of one and one-half percent over the previous year. Other factors noted by the Department of Highways and the Highway Users Conference that contribute to increased costs of highways include environmental considerations, government regulations, and safety needs.

In recent legislative sessions, the General Assembly has acted to bolster the financial status of the Highway Users Tax Fund (HUTF). In 1979, Senate Bill 536, the "Noble Bill", was enacted, which provides for the transfer of part of the auto related sales and use revenues to the fund. Senate Bill 536 will generate over thirty million dollars per year, but it will expire in June, 1982.

Highway finance solutions. The following solutions for highway financing problems were offered by the Highway Department and the Highway Users Conference:

1. The sales and use tax bill enacted in 1980 (Senate Bill 536), could be continued beyond its expiration date of June 30, 1982.
2. Colorado could increase the state fuel tax from the current level of seven cents per gallon.
3. An indexed, or variable gas tax, could be implemented. This tax is a cents per gallon assessment that is adjusted annually based on a percent of the price of gasoline.
4. Highway user fees, such as vehicle registration, driver's license fees, or the gross ton-mile tax, could be increased.
5. New tax sources could be utilized to fund highway programs. Examples of such sources could be to revise the severance tax to provide that a percentage of revenues be earmarked for highway financing or the specific ownership tax formula on motor vehicles could be altered to direct a certain percentage of revenues into the Highway Users Tax Fund.
6. Diversions ("off-the-top appropriations") from the Highway Users Tax Fund could be further restricted.

After a review of testimony on Colorado's highway finance problems and solutions offered thereto, the committee decided not to recommend any proposals for increasing funding to the Highway Users Tax Fund.

## BILL 13

### A BILL FOR AN ACT

1 PROVIDING FOR THE ELIMINATION OF THE PASSENGER-MILE TAX AND  
2 SUBSTITUTING A REGISTRATION SYSTEM THEREFOR.

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#### Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Eliminates the passenger-mile tax for Colorado-registered buses. Eliminates the requirement that Colorado-registered buses stop at port of entry weigh stations. Amends the definition of a motor vehicle as it relates to ports of entry. Amends the fee charged single-trip operators of buses registered in another state.

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3 Be it enacted by the General Assembly of the State of Colorado:

4 SECTION 1. 42-3-123 (4) (c) (I), Colorado Revised Statutes  
5 1973, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6 42-3-123. Registration fees ton-mile taxes.

7 (4) (c) (I) All such vehicles used for the transportation of  
8 passengers for compensation having a seating capacity of twenty  
9 or fewer passengers, one hundred thirty-seven dollars; twenty-one  
10 but fewer than thirty-one passengers, three hundred forty-two  
11 dollars; thirty-one but fewer than forty-one passengers, four



1 hundred eighty dollars; forty-one but fewer than fifty-one  
2 passengers, six hundred seventeen dollars; fifty-one or more  
3 passengers, eight hundred twenty-two dollars.

4 SECTION 2. 42-3-123 (18) (b) and (18) (c), Colorado Revised  
5 Statutes 1973, are amended to read:

6 42-3-123. Registration fees - ton-mile taxes.

7 (18) (b) Any passenger bus operating over the public highways of  
8 this state and rendering service pursuant to a temporary  
9 certificate of public convenience and necessity issued by the  
10 public utilities commission shall pay for the issuance of such  
11 temporary certificate, and for any renewal thereof, a fee of ten  
12 dollars. ~~which fee shall be in lieu of the tax assessed by the~~  
13 ~~provisions of this subsection (18):~~

14 (c) The owner or operator of any passenger bus, which is  
15 registered in another state and which owner or operator desires  
16 to make an occasional trip into this state, need not obtain a  
17 permit from the public utilities commission as provided in  
18 sections 40-10-104 and 40-11-103, C.R.S. 1973, but may instead  
19 apply to the department for the issuance of a trip permit and  
20 shall pay to the department for the issuance of such trip permit  
21 a fee of five \_\_\_\_ dollars. ~~or the amount of passenger-mile tax~~  
22 ~~becoming due and payable under the provisions of paragraph (a) of~~  
23 ~~this subsection (18) by reason of such trip; whichever amount is~~  
24 ~~greater:~~

25 SECTION 3. 42-3-124 (1), Colorado Revised Statutes 1973, is  
26 amended to read:

1       42-3-124. Enforcement powers of department. (1) The  
2 department is authorized to administer and enforce the provisions  
3 of section 42-3-123, including the right to inspect and audit the  
4 books, records, and documents of any owner or operator of a  
5 vehicle operated upon the public highways who is required to pay  
6 the ton-mile ~~or--passenger-mile~~ tax imposed, and the executive  
7 director of the department has authority to prescribe such  
8 reasonable rules and regulations as he deems necessary or  
9 suitable for such administration and enforcement.

10       SECTION 4. 42-3-125 (1) (a), (3), (4) (a), and (5),  
11 Colorado Revised Statutes 1973, are amended to read:

12       42-3-125. Taxpayer statements - payment of tax - estimates  
13 - penalties - deposits - delinquency proceedings. (1) (a) Every  
14 owner or operator of a motor vehicle operated over any public  
15 highway of this state and required to pay the ton-mile ~~or~~  
16 ~~passenger-mile~~ tax imposed by the provisions of section 42-3-123  
17 shall, on or before the twenty-fifth day of each month, file with  
18 the department, on forms prescribed by said department and the  
19 public utilities commission, a statement, subject to the  
20 penalties for perjury in the second degree, showing the name and  
21 address of the owner of the motor vehicles so operated, total  
22 miles traveled, and total tons of cargo ~~and--total--number--of~~  
23 ~~passengers~~ carried in this state during the preceding month, and  
24 such other information as required by the department and the  
25 commission, and shall compute and pay such tax; except that the  
26 executive director of the department may, in his discretion,

1 authorize the filing of statements and the payment of tax  
2 computed thereon for periods in excess of one month but not to  
3 exceed a period of twelve months.

4 (3) If any owner or operator of a vehicle knowingly makes  
5 and files with the department a false or fraudulent statement  
6 with intent to evade payment of any ton-mile or-passenger-mile  
7 tax due, the department shall, as soon as it discovers the false  
8 or fraudulent nature of such statement, make an investigation and  
9 determine the correct amount of tax due, add thereto a penalty of  
10 fifty percent, and proceed to collect the total amount by  
11 distraint and sale as provided in section 39-21-114, C.R.S. 1973.  
12 If any such owner or operator disputes the amount asserted to be  
13 due and payable, he shall be entitled to a hearing before the  
14 executive director of the department, and the decision of the  
15 executive director shall be subject to judicial review in the  
16 manner provided by law.

17 (4) (a) To guarantee payment of the ton-mile or  
18 passenger-mile tax, every owner or operator of a motor vehicle  
19 subject thereto shall deposit with the department cash, a  
20 certified check, a bank money order, a surety bond, or a  
21 negotiable certificate of deposit issued by a commercial bank  
22 doing business in this state, acceptable to the executive  
23 director, in an amount no greater than twice the amount of tax  
24 estimated by the executive director to become due and payable  
25 each month. If the deposit is in cash or a negotiable  
26 certificate of deposit, it shall be subject to forfeiture upon

1 failure of the owner or operator to comply with the provisions of  
2 sections 42-3-123 to 42-3-126 and articles 10 and 11 of title 40,  
3 C.R.S. 1973, or the rules and regulations of the department or  
4 the public utilities commission; if it is a surety bond, it shall  
5 be conditioned upon the insured's faithful compliance with said  
6 provisions or said rules and regulations.

7 (5) All ton-mile ~~and--passenger-mile~~ taxes and penalties  
8 determined to be due from any owner or operator of a motor  
9 vehicle and not paid on the date when the same are due and  
10 payable shall become and remain a prior and perpetual lien upon  
11 all the personal property of such owner or operator until such  
12 time as the full amount of the tax determined and found to be  
13 due, together with all penalties, has been paid. Nothing in this  
14 section shall be construed to abrogate or diminish the rights of  
15 bona fide purchasers, lienors, or pledgees for value and without  
16 notice.

17 SECTION 5. 42-3-126 (1), Colorado Revised Statutes 1973, is  
18 amended to read:

19 42-3-126. Permit to be secured - records kept - penalties.

20 (1) Every owner or operator of a motor vehicle operated over any  
21 public highway of this state who has posted a bond as required by  
22 section 42-3-125 (4) and who is required to pay the ton-mile or  
23 ~~passenger-mile~~ tax imposed by the provisions of section 42-3-123  
24 shall apply to the department and secure a ton-mile or  
25 ~~passenger-mile~~ tax permit and shall keep and maintain true and  
26 correct records of the operations of such motor vehicles,

1 including the number of miles operated, AND the number of pounds  
2 of cargo carried, ~~and-the-number-of-passengers-carried~~; in such  
3 form and manner as may be prescribed by the department and the  
4 public utilities commission, and shall preserve all such records  
5 for a period of four years. The ton-mile ~~or--passenger-mile~~ tax  
6 permit shall remain effective until the owner thereof advises the  
7 department of a change in ownership or a discontinuance of  
8 business or until he has failed to file tax reports and pay the  
9 ton-mile ~~or--passenger-mile~~ tax, if any is due, for four  
10 successive tax periods.

11 SECTION 6. 42-8-102 (1), Colorado Revised Statutes 1973, is  
12 amended to read:

13 42-8-102. Definitions. (1) "Motor vehicles" means  
14 PASSENGER BUSES, trucks, truck tractors, trailers, and  
15 semitrailers or combinations thereof.

16 SECTION 7. 42-8-105 (2), (3), and (5), Colorado Revised  
17 Statutes 1973, are amended to read:

18 42-8-105. Clearance of motor vehicles at port of entry  
19 weigh stations. (2) It is unlawful for any owner or operator of  
20 a motor vehicle subject to the provisions of section 42-3-123,  
21 EXCEPT A PASSENGER BUS REGISTERED IN COLORADO PURSUANT TO SECTION  
22 42-3-123 (4) (c) (I), to permit the travel of such motor vehicle  
23 on the public highways of this state without first having secured  
24 a valid clearance certificate as provided in subsection (1) of  
25 this section, and every such owner or operator shall be required  
26 to seek out a port of entry weigh station for the purpose of

1     securing such valid clearance certificate, whether or not such  
2     port of entry weigh station is located on the route which he is  
3     following, unless a valid clearance certificate or a special  
4     permit in accordance with subsection (4) of this section has  
5     previously been secured.

6           (3) Every owner or operator of a motor vehicle which is  
7     subject to the provisions of section 42-3-123, EXCEPT A PASSENGER  
8     BUS REGISTERED IN COLORADO PURSUANT TO SECTION 42-3-123 (4) (c)  
9     (I), shall stop at each port of entry weigh station located on  
10    the route which he would normally follow from the point of his  
11    departure to the point of his destination for verification of its  
12    previously secured clearance certificate.

13          (5) Any owner or operator of a motor vehicle which is  
14    subject to the REGISTRATION OR TAXATION provisions of section  
15    42-3-123, who is found guilty of violating the provisions and  
16    requirements of this section, shall be subject to the fines and  
17    penalties prescribed in section 42-8-109.

18          SECTION 8. 39-21-102, Colorado Revised Statutes 1973, as  
19    amended, is amended to read:

20          39-21-102. Scope. Unless otherwise indicated, the  
21    provisions of this article apply to income, inheritance, gift,  
22    gross ton-mile, ~~passenger-mile~~; gasoline, special fuel,  
23    cigarette, sales, use, and severance taxes and the charge on oil  
24    and gas production imposed by articles 22 to 29 of this title,  
25    article 60 of title 34, and article 3 of title 42, C.R.S. 1973.

26          SECTION 9. 39-21-103 (1), Colorado Revised Statutes 1973,

1 as amended, is amended to read:

2 39-21-103. Hearings. (1) As soon as practicable after an  
3 income, gift, gross ton-mile, ~~passenger-mile~~; gasoline, special  
4 fuel, cigarette, sales, use, or severance tax return or the  
5 return showing the value of oil and gas is filed, the executive  
6 director of the department of revenue shall examine it and shall  
7 determine the correct amount of tax. If the tax found due is  
8 greater than the amount theretofore assessed or paid, a notice of  
9 deficiency shall be mailed to the taxpayer by certified mail.

10 SECTION 10. 39-21-106 (1), Colorado Revised Statutes 1973,  
11 as amended, is amended to read:

12 39-21-106. Compromise. (1) The executive director of the  
13 department of revenue or his delegate may compromise any civil or  
14 criminal case arising under the Colorado income, gift, gross  
15 ton-mile, ~~passenger-mile~~; gasoline, special fuel, cigarette,  
16 sales, use, or severance tax or the charge on oil and gas  
17 production imposed by article 22, article 25, part 1 or part 2 of  
18 article 26, article 27, article 28, or article 29 of this title,  
19 article 60 of title 34, or article 3 of title 42, C.R.S. 1973,  
20 prior to reference to the department of law for prosecution or  
21 defense; and the attorney general or his delegate shall, upon the  
22 written direction of the executive director, compromise any such  
23 case after reference to the department of law for prosecution or  
24 defense.

25 SECTION 11. 39-21-107 (1), Colorado Revised Statutes 1973,  
26 as amended, is amended to read:

1        39-21-107. Limitations. (1) Except as provided in this  
2 section and unless such time is extended by waiver, the amount of  
3 any gross ton-mile, ~~passenger-mile~~; gasoline, special fuel,  
4 cigarette, sales, use, or severance tax or of any charge on oil  
5 and gas production and the penalty and interest applicable  
6 thereto shall be assessed within three years after the return was  
7 filed, whether or not such return was filed on or after the date  
8 prescribed, and no assessment shall be made or credit taken and  
9 no notice of lien shall be filed, nor distraint warrant issued,  
10 nor suit for collection instituted, nor any other action to  
11 collect the same commenced after the expiration of such period.  
12 No lien shall continue after the three-year period provided for  
13 in this subsection (1), except for taxes assessed before the  
14 expiration of such period, notice of lien with respect to which  
15 has been filed prior to the expiration of such period, in which  
16 case the lien shall continue for one year only after the  
17 expiration of such period. This subsection (1) shall not apply to  
18 income tax.

19        SECTION 12. 39-21-108 (1) (a), Colorado Revised Statutes  
20 1973, as amended, is amended to read:

21        39-21-108. Refunds. (1) (a) In the case of income tax  
22 imposed by article 22 of this title, the taxpayer must file any  
23 claim for refund or credit for any year not later than one year  
24 after the expiration of the time provided for filing a claim for  
25 refund of federal income tax, including any extensions of such  
26 period by agreement between the taxpayer and the federal taxing



1 authorities; but nothing in this subsection (1) shall be  
2 construed to shorten the period for filing claims provided by  
3 section 39-22-601 (6) (f). In the case of the charge on oil and  
4 gas production imposed by article 60 of title 34, C.R.S. 1973,  
5 and the ton-mile ~~or-passenger-mile~~ tax imposed by article 3 of  
6 title 42, C.R.S. 1973, or the severance tax imposed by article 29  
7 of this title, the taxpayer must file any claim for refund or  
8 credit for any period not later than three years after the date  
9 of payment. Claims for refund of other taxes covered by this  
10 article shall be made within the time limits expressly provided  
11 for the specific taxes involved. No suit for refund may be  
12 commenced before the expiration of six months after the date of  
13 filing the claim for refund required under this section unless  
14 the executive director of the department of revenue renders a  
15 decision thereon within that time, nor after the expiration of  
16 two years after the date of mailing, by certified or registered  
17 mail, by the executive director to the taxpayer of a notice of  
18 disallowance of the part of the claim to which the suit relates.  
19 The said two-year period shall be extended for such period as may  
20 be agreed upon in writing between the taxpayer and the executive  
21 director. This subsection (1) shall not apply to sales and use  
22 taxes.

23 SECTION 13. 39-21-109 (1), Colorado Revised Statutes 1973,  
24 as amended, is amended to read:

25 39-21-109. Interest on underpayment, nonpayment, or  
26 extensions of time for payment of tax. (1) If any amount of

1 income, gross ton-mile, ~~passenger-mile~~; gasoline, special fuel,  
2 cigarette, sales, use, or severance tax or any charge on oil and  
3 gas production is not paid on or before the last date prescribed  
4 for payment, interest on such amount at the rate of six percent  
5 per annum shall be paid for the period from such last date to the  
6 date paid. The last date prescribed for payment shall be  
7 determined without regard to any extension of time for payment  
8 and shall be determined without regard to any notice and demand  
9 for payment issued, by reason of jeopardy, prior to the last date  
10 otherwise prescribed for such payment. In the case of a tax in  
11 which the last date for payment is not otherwise prescribed, the  
12 last date for payment shall be deemed to be the date the  
13 liability for the tax arises, and in no event shall it be later  
14 than the date notice and demand for the tax is made by the  
15 executive director of the department of revenue or his delegate.

16 SECTION 14. The introductory portion to 39-21-110 (1), and  
17 39-21-110 (2) and (3), Colorado Revised Statutes 1973, as  
18 amended, are amended to read:

19 39-21-110. Interest on overpayments. (1) Interest shall be  
20 allowed and paid upon any overpayment in respect to any income,  
21 gross ton-mile, ~~passenger-mile~~; gasoline, special fuel, sales,  
22 use, or severance tax or any charge on oil and gas production at  
23 the rate of six percent per annum. Such interest shall be allowed  
24 and paid as follows:

25 (2) Any portion of an income, gross ton-mile,  
26 ~~passenger-mile~~; gasoline, special fuel, cigarette, sales, use, or

1 severance tax or of a charge on oil and gas production or any  
2 interest, assessable penalty, additional amount, or addition to a  
3 tax or charge which has been erroneously refunded shall bear  
4 interest at the rate of six percent per annum from the date of  
5 the payment of the refund.

6 (3) If any overpayment of an income, gross ton-mile,  
7 ~~passenger-mile~~; gasoline, special fuel, sales, use, or severance  
8 tax or of a charge on oil and gas production is refunded within  
9 ninety days after the last date prescribed for filing the return  
10 of such tax or charge, determined without regard to any extension  
11 of time for filing the return, no interest shall be allowed under  
12 subsection (1) of this section on such overpayment.

13 SECTION 15. 39-21-113 (1)(a), Colorado Revised Statutes  
14 1973, as amended, is amended to read:

15 39-21-113. Reports and returns. (1) (a) It is the duty of  
16 every person, firm, or corporation liable to the state of  
17 Colorado for any gross ton-mile, ~~passenger-mile~~; gasoline,  
18 special fuel, cigarette, sales, use, or severance tax or any  
19 charge on oil and gas production to keep and preserve for a  
20 period of three years such books, accounts, and records as may be  
21 necessary to determine the amount of liability.

22 SECTION 16. 39-27-205 (2)(a), Colorado Revised Statutes  
23 1973, as amended, is amended to read:

24 39-27-205. Tax collection. (2) (a) Every person  
25 authorized by the executive director to purchase special fuel  
26 ex-tax under the provisions of section 39-27-202 (3) (b), except

1 such persons who qualify for ex-tax purchases under section  
2 39-27-202 (2) (a) or (2) (b), and every person who has obtained  
3 a ton-mile ~~or--passenger-mile~~ tax permit pursuant to section  
4 42-3-126, C.R.S. 1973, where such permit relates to a motor  
5 vehicle which is powered by special fuel, shall, on or before the  
6 twenty-fifth day of each month, file with the executive director  
7 a report stating the amount of special fuel, subject to the tax  
8 imposed by this part 2, consumed by such person during the prior  
9 calendar month, and such other information relating to the use of  
10 special fuel for the propulsion of a motor vehicle on the  
11 highways of this state as the executive director may require.  
12 The executive director, under rules and procedures established by  
13 him, may exempt from the reporting requirement of this subsection  
14 (2) any motor vehicle used exclusively within this state. Failure  
15 to receive the authorized report form does not relieve such  
16 person from the obligation of submitting a report to the  
17 executive director setting forth all information required on the  
18 prescribed report form. The report shall contain or be  
19 accompanied by a written declaration that it is made under the  
20 penalties of perjury in the second degree, as defined in section  
21 18-8-503, C.R.S 1973.

22 SECTION 17. 40-2-109, Colorado Revised Statutes 1973, is  
23 amended to read:

24 40-2-109. Report to executive director of the department of  
25 revenue. On March 1 of each year the public utilities commission  
26 shall furnish the executive director of the department of revenue

1 with a list of those public utilities subject to its  
2 jurisdiction, supervision, and regulation on January 1 of each  
3 year, excepting those motor vehicle carriers subject to the  
4 ton-mile ~~or--passenger-mile~~ tax imposed by the provisions of  
5 section 42-3-123, C.R.S. 1973, (but only so long as the cost of  
6 regulation of such motor vehicle carriers shall be defrayed from  
7 the proceeds of such ton-mile ~~or-passenger-mile-taxes~~ TAX).

8 SECTION 18. 42-3-122.5, Colorado Revised Statutes 1973, as  
9 amended, is amended to read:

10 42-3-122.5. Electric-powered motor vehicles - exemption.

11 All electric-powered motor vehicles shall be exempt from the  
12 imposition of registration fees and ~~passenger-mile-and~~ ton-mile  
13 taxes under section 42-3-123. This section is repealed,  
14 effective July 1, 1987.

15 SECTION 19. 42-8-105 (1), Colorado Revised Statutes 1973,  
16 is amended to read:

17 42-8-105. Clearance of motor vehicles at port of entry  
18 weigh stations. (1) Every owner or operator of a motor vehicle  
19 which is subject to payment of THE ton-mile ~~or--passenger-mile~~  
20 ~~taxes~~ TAX under the provisions of section 42-3-123 shall secure a  
21 valid clearance certificate from an office of the department of  
22 revenue, from an officer of the Colorado state patrol, or from a  
23 port of entry weigh station before operating such vehicle or  
24 causing such vehicle to be operated on the public highways of  
25 this state, but an owner or operator shall be deemed to have  
26 complied with the provisions of this subsection (1) if he secures

1 a clearance certificate from the first port of entry weigh  
2 station located within five road miles of the route which he  
3 would normally follow from his point of departure to the point of  
4 his destination. An owner or operator shall not be required to  
5 seek out a port of entry weigh station not located on the route  
6 he is following if he secures a special revocable permit from the  
7 department of revenue in accordance with the provisions of  
8 subsection (4) of this section.

9 SECTION 20. 43-4-203 (1)(c), Colorado Revised Statutes  
10 1973, is amended to read:

11 43-4-203. Sources of revenue. (1) (c) From the imposition  
12 of ton-mile ~~and-passenger-mile~~ taxes on vehicles or any fee or  
13 payment substituted therefor.

14 SECTION 21. 43-4-316 (1)(c), Colorado Revised Statutes  
15 1973, is amended to read:

16 43-4-316. Additional powers. (1) (c) To establish escrow  
17 accounts in any bank within the state of Colorado which is a  
18 member of the federal deposit insurance corporation under  
19 protective agreements in amounts sufficient to insure the payment  
20 of any bonds refunded under the provisions of sections 43-4-315  
21 to 43-4-318. Any of the accounts so established may be invested  
22 in direct obligations of the United States with appropriate  
23 maturities and yields to insure such payment. Upon the  
24 establishment of such escrow accounts, all of said refunding  
25 bonds shall constitute a first closed lien on all net revenue  
26 derived by the state highway commission from the imposition of

1 any excise tax on motor fuel, annual registration fees on  
2 drivers, motor vehicles, trailers and semitrailers, and ton-mile  
3 ~~and-passenger-mile~~ taxes upon vehicles or any fee or payment  
4 substituted therefor.

5 SECTION 22. Repeal. 42-3-123 (18) (a), Colorado Revised  
6 Statutes 1973, is repealed.

7 SECTION 23. Effective date - applicability. This act shall  
8 take effect January 1, 1982, and shall apply to taxes required to  
9 be paid on or after said date.

10 SECTION 24. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

BILL 14

A BILL FOR AN ACT

1 CONCERNING TAX PERIODS UNDER THE GROSS TON-MILE TAX.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Permits owners or operators of motor vehicles having ton-mile tax liability to pay the tax and file the reports required therefor on a quarterly rather than a monthly basis.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 42-3-125 (1) (a) and (4) (a), Colorado Revised  
4 Statutes 1973, are amended, and the said 42-3-125 (1) is further  
5 amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

6 42-3-125. Taxpayer statements - payment of tax - estimates  
7 - penalties - deposits - delinquency proceedings.

8 (1) (a) EXCEPT AS PROVIDED IN PARAGRAPH (c) OF THIS SUBSECTION  
9 (1), every owner or operator of a motor vehicle operated over any  
10 public highway of this state and required to pay the ton-mile or  
11 passenger-mile tax imposed by the provisions of section 42-3-123  
12 shall, on or before the twenty-fifth day of each month, file with



1 the department, on forms prescribed by said department and the  
2 public utilities commission, a statement, subject to the  
3 penalties for perjury in the second degree, showing the name and  
4 address of the owner of the motor vehicles so operated, total  
5 miles traveled, and total tons of cargo and total number of  
6 passengers carried in this state during the preceding month and  
7 such other information as required by the department and the  
8 commission and shall compute and pay such tax; except that the  
9 executive director of the department may, in his discretion,  
10 authorize the filing of statements and the payment of tax  
11 computed thereon for periods in excess of one month but not to  
12 exceed a period of twelve months.

13 (c) Notwithstanding any other provision of this section to  
14 the contrary, any owner or operator of a motor vehicle required  
15 to pay the ton-mile tax imposed by the provisions of section  
16 42-3-123 may pay the tax and file the statement required by  
17 paragraph (a) of this subsection (1) on a quarterly basis.

18 (4) (a) To guarantee payment of the ton-mile or  
19 passenger-mile tax, every owner or operator of a motor vehicle  
20 subject thereto shall deposit with the department cash, a  
21 certified check, a bank money order, a surety bond, or a  
22 negotiable certificate of deposit issued by a commercial bank  
23 doing business in this state, acceptable to the executive  
24 director, in an amount no greater than twice the amount of tax  
25 estimated by the executive director to become due and payable  
26 each month TAX PERIOD. If the deposit is in cash or a negotiable

1 certificate of deposit, it shall be subject to forfeiture upon  
2 failure of the owner or operator to comply with the provisions of  
3 sections 42-3-123 to 42-3-126 and articles 10 and 11 of title 40,  
4 C.R.S. 1973, or the rules and regulations of the department or  
5 the public utilities commission; if it is a surety bond, it shall  
6 be conditioned upon the insured's faithful compliance with said  
7 provisions or said rules and regulations.

8 SECTION 2. Effective date. This act shall take effect July  
9 1, 1981.

10 SECTION 3. Safety clause. The general assembly hereby  
11 finds, determines, and declares that this act is necessary for  
12 the immediate preservation of the public peace, health, and  
13 safety.

BILL 15

A BILL FOR AN ACT

1 CONCERNING THE SIMPLIFICATION OF PORT OF ENTRY CLEARANCES.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Simplifies the information required from operators of motor vehicles attempting to clear a port of entry. Requires vehicles registered with the state and vehicles using an average weight factor to be clearly identified by distinct markings affixed to such vehicles.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 42-8-105, Colorado Revised Statutes 1973, is  
4 amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

5 42-8-105. Clearance of motor vehicles at port of entry  
6 weigh stations. (6) To facilitate the proper identification and  
7 handling of all motor vehicles requiring clearance through the  
8 port of entry weigh stations of the state, the owner of every  
9 motor vehicle registered with the department of revenue shall  
10 affix a distinct marking on such vehicle to specifications set by  
11 the executive director of the department of revenue. Such

1 marking shall include the address of the owner of the vehicle and  
2 the gross vehicle weight of the vehicle.

3 (7) Notwithstanding any other provision of this section to  
4 the contrary, every owner or operator of a motor vehicle for  
5 which the executive director of the department of revenue has  
6 determined an average weight factor pursuant to section 42-3-123  
7 shall affix a distinct marking on such vehicle to specifications  
8 set by the executive director. Such marking shall include the  
9 address of the owner of the motor vehicle and such other  
10 information as the executive director shall require. No motor  
11 vehicle bearing such identification marking shall be required to  
12 secure gross ton-mile clearance at a port of entry weigh station  
13 unless an officer of the division shall so order. In the absence  
14 of such an order, the operator of such vehicle need only weigh  
15 through each port of entry it passes.

16 SECTION 2. Repeal. 42-8-106 (1), Colorado Revised Statutes  
17 1973, is repealed.

18 SECTION 3. Effective date - applicability. This act shall  
19 take effect January 1, 1982, and shall apply to taxes required to  
20 be paid on or after said date.

21 SECTION 4. Safety clause. The general assembly hereby  
22 finds, determines, and declares that this act is necessary for  
23 the immediate preservation of the public peace, health, and  
24 safety.

BILL 16

A BILL FOR AN ACT

1 CONCERNING THE PORTS OF ENTRY SYSTEM.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Provides for a reduction in the number of permanent port of entry weigh stations.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 42-8-103, Colorado Revised Statutes 1973, is  
4 amended to read:

5 42-8-103. Ports of entry division. (1) There is hereby  
6 created within the department of revenue a ports of entry  
7 division, which division, acting under the authority and  
8 direction of the executive director of the department of revenue,  
9 shall be responsible for establishing and operating port of entry  
10 weigh stations at such points along the public highways of this  
11 state as are determined to be necessary to carry out the purposes  
12 of this article. ON AND AFTER JULY 1, 1984, the executive

1 director shall authorize not ~~less~~ MORE than ten permanent port of  
2 entry weigh stations and not less than four mobile port of entry  
3 weigh stations to be established and operated by the division and  
4 such additional stations as he may from time to time determine to  
5 be necessary. The location or relocation of such stationary or  
6 mobile port of entry weigh stations shall be determined by the  
7 executive director. Wherever any provision of this article  
8 refers to a motor vehicle inspection station or to a motor  
9 carrier inspection station, such provision shall be deemed to  
10 refer to a port of entry weigh station established and operated  
11 by the ports of entry division.

12 (2) (a) ON AND AFTER JULY 1, 1981, THE EXECUTIVE DIRECTOR  
13 OF THE DEPARTMENT OF REVENUE SHALL AUTHORIZE NOT MORE THAN  
14 EIGHTEEN PERMANENT PORT OF ENTRY WEIGH STATIONS AND NOT LESS THAN  
15 FOUR MOBILE PORT OF ENTRY WEIGH STATIONS.

16 (b) ON AND AFTER JULY 1, 1982, THE EXECUTIVE DIRECTOR OF  
17 THE DEPARTMENT OF REVENUE SHALL AUTHORIZE NOT MORE THAN FOURTEEN  
18 PERMANENT PORT OF ENTRY WEIGH STATIONS AND NOT LESS THAN FOUR  
19 MOBILE PORT OF ENTRY WEIGH STATIONS.

20 (c) ON AND AFTER JULY 1, 1983, THE EXECUTIVE DIRECTOR OF  
21 THE DEPARTMENT OF REVENUE SHALL AUTHORIZE NOT MORE THAN ELEVEN  
22 PERMANENT PORT OF ENTRY WEIGH STATIONS AND NOT LESS THAN FOUR  
23 MOBILE PORT OF ENTRY WEIGH STATIONS.

24 (d) THIS SUBSECTION (2) IS REPEALED, EFFECTIVE JULY 1,  
25 1984.

26 SECTION 2. Effective date. This act shall take effect July

1 1, 1981.

2 SECTION 3. Safety clause. The general assembly hereby  
3 finds, determines, and declares that this act is necessary for  
4 the immediate preservation of the public peace, health, and  
5 safety.

BILL 17

A BILL FOR AN ACT

1 CONCERNING THE STATE HIGHWAY ACCESS CODE.

---

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Limits the time in which local governments and the state department of highways may act on access permits.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 43-2-147 (1) (b) and (5) (a), Colorado Revised  
4 Statutes 1973, as amended, are amended to read:

5 43-2-147. Access to public highways. (1) (b) Vehicular  
6 access to or from property adjoining a state highway shall be  
7 provided to the general street system, unless such access has  
8 been acquired by a public authority. Police, fire, ambulance,  
9 and other emergency stations shall have a right of direct access  
10 to state highways. After June 21, 1979, no person may submit an  
11 application for subdivision approval to a local authority unless  
12 the subdivision plan or plat ~~ensures~~ PROVIDES that all lots and  
13 parcels created by the subdivision will have access to the state



1 highway system in conformance with the state highway access code.

2 (5) (a) After the effective date of the access code, no  
3 person shall construct any driveway providing vehicular access to  
4 or from any state highway from or to property adjoining a state  
5 highway without an access permit issued by the appropriate local  
6 authority with the written concurrence APPROVAL of the state  
7 department of highways. IF THE LOCAL AUTHORITY FAILS TO ACT  
8 WITHIN FORTY-FIVE DAYS AFTER AN ACCESS PERMIT HAS BEEN REQUESTED,  
9 SUCH PERMIT SHALL BE DEEMED ISSUED SUBJECT TO WRITTEN APPROVAL OF  
10 THE STATE DEPARTMENT OF HIGHWAYS. If the state department of  
11 highways does not act upon such AN access permit within  
12 ~~forty-five~~ FIFTEEN days after notice by the local authority, such  
13 permit shall be deemed ~~valid~~ APPROVED. Upon written request by a  
14 local authority, the state department of highways shall  
15 administer or assist in the administration of access permits in  
16 that jurisdiction. IF THE STATE DEPARTMENT OF HIGHWAYS  
17 UNDERTAKES TO ADMINISTER ACCESS PERMITS IN A JURISDICTION, IT  
18 SHALL ACT UPON REQUESTED ACCESS PERMITS WITHIN FORTY-FIVE DAYS OF  
19 REQUEST. IF THE STATE DEPARTMENT OF HIGHWAYS FAILS TO ACT WITHIN  
20 FORTY-FIVE DAYS UPON A REQUESTED ACCESS PERMIT, SUCH PERMIT SHALL  
21 BE DEEMED APPROVED. Access permits shall be issued only in  
22 compliance with the access code and may include terms and  
23 conditions authorized by the access code.

24 SECTION 2. Safety clause. The general assembly hereby  
25 finds, determines, and declares that this act is necessary for  
26 the immediate preservation of the public peace, health, and  
27 safety.

## BILL 18

### A BILL FOR AN ACT

1 CONCERNING CONSIDERATION OF THE HIGHWAY ACCESS CODE.

---

#### Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments which may be subsequently adopted.)

Repeals specific provisions concerning legislative review of the highway access code.

---

2 Be it enacted by the General Assembly of the State of Colorado:

3 SECTION 1. 43-2-147 (3), Colorado Revised Statutes 1973, as  
4 amended, is amended to read:

5 43-2-147. Access to public highways. (3) In reviewing the  
6 state highway access code, the legislative committees of  
7 reference may approve, approve with modifications, or reject the  
8 code. Failure of either or both committees to act on or before  
9 March 15, 1980, shall be deemed approval thereof. Should,  
10 however, either or both committees specifically reject the code,  
11 the NEXT INTERIM committee shall make necessary changes in the  
12 access code and resubmit it to the ~~committee~~ COMMITTEES of

1 reference at the next regular session of the general assembly.  
2 FAILURE OF EITHER OR BOTH COMMITTEES OF REFERENCE TO ACT BEFORE  
3 THE END OF THE FIRST REGULAR SESSION OF THE FIFTY-THIRD GENERAL  
4 ASSEMBLY SHALL BE DEEMED APPROVAL OF THE CODE. SHOULD, HOWEVER,  
5 EITHER OR BOTH COMMITTEES OF REFERENCE SPECIFICALLY REJECT THE  
6 CODE, THE NEXT INTERIM COMMITTEE SHALL MAKE NECESSARY CHANGES IN  
7 THE ACCESS CODE AND RESUBMIT IT TO THE COMMITTEES OF REFERENCE AT  
8 THE SECOND REGULAR SESSION OF THE FIFTY-THIRD GENERAL ASSEMBLY  
9 WHICH MAY APPROVE, APPROVE WITH MODIFICATIONS, OR REJECT THE  
10 CODE.

11 SECTION 2. Safety clause. The general assembly hereby  
12 finds, determines, and declares that this act is necessary for  
13 the immediate preservation of the public peace, health, and  
14 safety.

## APPENDIX A

### THIRD STRUCTURE TAXES

| Alabama  | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
|--|--|----------------|------------|---------------------|-------|---------------------|----|-----------------------------|-----|---------------------------------------|----|--|-----|
| Arizona  | No mileage tax but there is a gross receipts tax based on receipts from transportation of property. This tax is at the rate of 2½% on the gross receipts in the state and is computed on the proportion of business within the state to total receipts on all business passing through, into or out of Arizona. For-hire carriers are required to place a bond in the amount of \$100 and make monthly reports. There is no reciprocity on the gross receipts tax. |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Arkansas   | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| California   | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Colorado   | Trucks registered as metro vehicles weighing more than 16,000 lbs. or those weighing between 5,000 lbs. - 16,000 lbs. and operated beyond 15 mile radius, and vehicles registered as intercity vehicles are subject to the gross ton-mile tax. The tax is assessed at a rate of .8 mills per ton-mile of empty vehicle weight plus .10 mills per ton-mile of cargo weight.   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Connecticut  | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Delaware   | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| District of Columbia   | None   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Florida  | <table> <tr> <th><u>Vehicle</u></th><th><u>Fee</u></th></tr> <tr> <td>Trucks with 2 axles</td><td>\$ 15</td></tr> <tr> <td>Trucks with 3 axles</td><td>50</td></tr> <tr> <td>Trucks with 4 or more axles</td><td>100</td></tr> <tr> <td>Tractor controlled by a permit holder</td><td>50</td></tr> <tr> <td>Vehicles registered or leased by a holder of a certificate authorizing the transportation of road aggregates</td><td>100</td></tr> </table>            | <u>Vehicle</u> | <u>Fee</u> | Trucks with 2 axles | \$ 15 | Trucks with 3 axles | 50 | Trucks with 4 or more axles | 100 | Tractor controlled by a permit holder | 50 | Vehicles registered or leased by a holder of a certificate authorizing the transportation of road aggregates | 100 |
| <u>Vehicle</u>   | <u>Fee</u>   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Trucks with 2 axles  | \$ 15  |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Trucks with 3 axles  | 50   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Trucks with 4 or more axles  | 100  |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Tractor controlled by a permit holder  | 50   |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |
| Vehicles registered or leased by a holder of a certificate authorizing the transportation of road aggregates | 100  |                |            |                     |       |                     |    |                             |     |                                       |    |  |     |

| <u>Vehicle</u>   | <u>Fee</u> |
|--|------------|
| Trucks or tractors used by household goods or mobile home movers   | \$ 40      |
| Trucks or tractors regardless of the number of axles, operated exclusively within 25 miles of domicile, except aggregate haulers | 15         |
| Trucks or tractors controlled by carriers holding a certificate of registration and transportation ICC exempt commodities        | 10         |
| Other tractors   | 100        |

Georgia

None

Idaho

Use Fee Schedule

Table "A" applies to vehicles/combination with a maximum gross vehicle weight (GVW) over 16,000 lbs. using gasoline for fuel.

Table "B" applies to vehicles/combinations with a maximum GVW over 16,000 lbs. and using fuels other than gasoline.

| <u>Maximum<br/>Gross Weight</u> | <u>Table "A"<br/>Mills Per Mile</u> | <u>Table "B"<br/>Mills Per Mile</u> |
|---------------------------------|-------------------------------------|-------------------------------------|
| 16,001 to 18,000                | \$ 5.25                             | \$ 7.70                             |
| 18,001 to 20,000                | 5.95                                | 8.20                                |
| 20,001 to 22,000                | 6.65                                | 8.75                                |
| 22,001 to 24,000                | 7.35                                | 9.30                                |
| 24,001 to 26,000                | 8.05                                | 9.85                                |
| 26,001 to 28,000                | 8.75                                | 9.90                                |
| 28,001 to 30,000                | 9.45                                | 10.85                               |
| 30,001 to 32,000                | 10.15                               | 11.35                               |
| 32,001 to 34,000                | 10.85                               | 11.90                               |
| 34,001 to 36,000                | 11.55                               | 12.40                               |
| 36,001 to 38,000                | 12.25                               | 12.90                               |
| 38,001 to 40,000                | 13.30                               | 12.95                               |
| 40,001 to 42,000                | 14.35                               | 13.00                               |
| 42,001 to 44,000                | 15.40                               | 13.00                               |
| 44,001 to 46,000                | 16.45                               | 13.55                               |
| 46,001 to 48,000                | 17.50                               | 13.70                               |
| 48,001 to 50,000                | 18.55                               | 14.25                               |
| 50,001 to 52,000                | 19.60                               | 14.70                               |
| 52,001 to 54,000                | 20.65                               | 15.20                               |
| 54,001 to 56,000                | 21.70                               | 15.65                               |
| 56,001 to 58,000                | 22.75                               | 16.20                               |
| 58,001 to 60,000                | 23.80                               | 16.70                               |

| <u>Maximum<br/>Gross Weight</u> | <u>Table "A"<br/>Mills Per Mile</u> | <u>Table "B"<br/>Mills Per Mile</u> |
|---------------------------------|-------------------------------------|-------------------------------------|
| 60,001 to 62,000                | \$24.85                             | \$17.20                             |
| 62,001 to 64,000                | 25.90                               | 17.90                               |
| 64,001 to 66,000                | 26.95                               | 18.45                               |
| 66,001 to 68,000                | 28.00                               | 19.00                               |
| 68,001 to 70,000                | 29.05                               | 19.55                               |
| 70,001 to 72,000                | 30.10                               | 20.05                               |
| 72,001 to 74,000                | 31.85                               | 20.60                               |
| 74,001 to 76,000                | 33.60                               | 21.30                               |
| 76,001 to 78,000                | 35.35                               | 21.80                               |
| 78,001 to 80,000                | 37.10                               | 22.30                               |

Vehicles in excess of 80,000 lbs. assessed an additional fee of 1.7 mills per mile for each 2,000 lbs. excess for Table "A" and 0.50 mills per mile for each 2,000 lbs. excess for Table "B".

|           |  |
|-----------|--|
| Illinois  | None   |
| Indiana   | None - However there is a general gross receipts tax which applies to all businesses and consequently applies to intrastate motor carrier operation. |
| Iowa      | None   |
| Kansas    | None   |
| Kentucky  | None   |
| Louisiana | None   |
| Maine     | Excise Tax   |

| <u>Year</u>           | <u>Miles Per \$1<br/>of Makers<br/>List Price</u> |
|-----------------------|---|
| 1st or current        | 24  |
| 2nd                   | 17½   |
| 3rd                   | 13¼   |
| 4th                   | 10  |
| 5th                   | 6½  |
| 6th and succeeding    | 4   |
| Minimum tax is \$5.00 |   |

|          |  |
|----------|--|
| Maryland | Maryland has a gross receipts tax which is applicable only to interstate common carriers and such tax is imposed by the Public Service |
|----------|--|

Law. For-hire common carrier must pay an annual filing fee in the amount equal to .0008 multiplied by the company's annual gross receipts for the preceding year. Those companies whose gross receipts are under \$10,000 are exempt.

Massachusetts None

Michigan Michigan has a privilege fee payable only by for-hire carriers to the Public Service Commission.

Minnesota None

| Mississippi | <u>Gross Weight</u>          | <u>Mills<br/>Per Mile</u> |
|-------------|------------------------------|---------------------------|
|             | 5 tons or less               | 15                        |
|             | Over 5 but not over 6 tons   | 16                        |
|             | Over 6 but not over 7 tons   | 17                        |
|             | Over 7 but not over 8 tons   | 18                        |
|             | Over 8 but not over 9 tons   | 19                        |
|             | Over 9 but not over 10 tons  | 20                        |
|             | Over 10 but not over 11 tons | 21                        |
|             | Over 11 but not over 12 tons | 22                        |
|             | Over 12 but not over 13 tons | 23                        |
|             | Over 13 but not over 14 tons | 24                        |
|             | Over 14 but not over 15 tons | 25                        |
|             | Over 15 but not over 16 tons | 26                        |
|             | Over 16 but not over 17 tons | 27                        |
|             | Over 17 but not over 18 tons | 28                        |
|             | Over 18 but not over 19 tons | 29                        |
|             | Over 19 but not over 20 tons | 30                        |
|             | Over 20 but not over 21 tons | 31                        |
|             | Over 21 but not over 22 tons | 32                        |
|             | Over 22 but not over 23 tons | 33                        |
|             | Over 23 but not over 24 tons | 34                        |
|             | Over 24 but not over 25 tons | 35                        |
|             | Over 25 but not over 26 tons | 36                        |
|             | Over 26 tons                 | 37                        |

Missouri None

Montana Third structure taxes in Montana are assessed by the Public Service Commission and apply only to for-hire carriers. These consist of the highway compensation fee of \$20 per vehicle.

Nebraska None

# Nevada

| <u>Unladen Weight (lbs.)</u> | <u>Fee</u> | <u>Unladen Weight (lbs.)</u> | <u>Fee</u> |
|------------------------------|------------|------------------------------|------------|
| 5,001 to 6,000               | \$ 45      | 13,001 to 14,000             | \$261      |
| 6,001 to 7,000               | 72         | 14,001 to 15,000             | 288        |
| 7,001 to 8,000               | 99         | 15,001 to 16,000             | 315        |
| 8,001 to 9,000               | 126        | 16,001 to 17,000             | 342        |
| 9,001 to 10,000              | 153        | 17,001 to 18,000             | 369        |
| 10,001 to 11,000             | 180        | 18,001 to 19,000             | 396        |
| 11,001 to 12,000             | 207        | 19,001 to 20,000             | 423        |
| 12,001 to 13,000             | 234        | 20,001 and over              | 450        |

New Hampshire      Although there are no third structure taxes in the State of New Hampshire, the Director of Motor Vehicles is authorized to impose similar fees on motor vehicles registered in other jurisdictions as are charged by these jurisdictions on motor vehicles operated by New Hampshire carriers.

New Jersey          None

New Mexico          Use Fee

| <u>Declared Gross<br/>Weight (lbs.)<br/>(Gross Vehicle Weight)</u> | <u>Fee (Mills<br/>Per Mile)</u> |
|--|---------------------------------|
| 26,001 to 28,000   | 5.69                            |
| 28,001 to 30,000   | 6.14                            |
| 30,001 to 32,000   | 6.60                            |
| 32,001 to 34,000   | 7.05                            |
| 34,001 to 36,000   | 7.51                            |
| 36,001 to 38,000   | 7.96                            |
| 38,001 to 40,000   | 8.65                            |
| 40,001 to 42,000   | 9.33                            |
| 42,001 to 44,000   | 10.01                           |
| 44,001 to 46,000   | 10.69                           |
| 46,001 to 48,000   | 11.38                           |
| 48,001 to 50,000   | 12.06                           |
| 50,001 to 52,000   | 12.74                           |
| 52,001 to 54,000   | 13.42                           |
| 54,001 to 56,000   | 14.11                           |
| 56,001 to 58,000   | 14.79                           |
| 58,001 to 60,000   | 15.47                           |
| 60,001 to 62,000   | 16.15                           |
| 62,001 to 64,000   | 16.84                           |
| 64,001 to 66,000   | 17.52                           |
| 66,001 to 68,000   | 18.20                           |
| 68,001 to 70,000   | 18.88                           |
| 70,001 to 72,000   | 19.57                           |
| 72,001 and over  | 20.07                           |



New York

New York has a highway use tax (ton-mile tax) as follows:

The highway use tax applies to every truck, tractor, trailer and semitrailer, except those operated by household goods carriers having a gross weight, alone, or in combination, in excess of 18,000 lbs., and every truck having an unloaded weight in excess of 8,000 lbs. and every tractor having an unloaded weight in excess of 4,000 lbs. Vehicles exempt from payment of mileage tax must secure a permit.

NOTE: By a 1961 amendment to Sec. 504, vehicular units with a gross weight, along or in combination, of 18,000 lbs. or less are exempt from the mileage tax until an election is made to compute the tax on the unladen weight basis as shown below.

Trucks and combinations with a gross weight of over 18,000 lbs., with certain exceptions\*, pay a mileage tax as follows:

| <u>Gross Weight</u> | <u>Fee<br/>Per Mile</u> | <u>Gross Weight</u> | <u>Fee<br/>Per Mile</u> |
|---------------------|-------------------------|---------------------|-------------------------|
| 18,001 to 20,000    | 6.0 Mills               | 48,001 to 50,000    | 17.0 Mills              |
| 20,001 to 22,000    | 7.0 Mills               | 50,001 to 52,000    | 18.0 Mills              |
| 22,001 to 24,000    | 8.0 Mills               | 52,001 to 54,000    | 19.0 Mills              |
| 24,001 to 26,000    | 9.0 Mills               | 54,001 to 56,000    | 20.0 Mills              |
| 26,001 to 28,000    | 9.5 Mills               | 56,001 to 58,000    | 21.0 Mills              |
| 28,001 to 30,000    | 10.0 Mills              | 58,001 to 60,000    | 22.0 Mills              |
| 30,001 to 32,000    | 10.5 Mills              | 60,001 to 62,000    | 23.0 Mills              |
| 32,001 to 34,000    | 11.0 Mills              | 62,001 to 64,000    | 24.0 Mills              |
| 34,001 to 36,000    | 11.5 Mills              | 64,001 to 66,000    | 25.5 Mills              |
| 36,001 to 38,000    | 12.0 Mills              | 66,001 to 68,000    | 27.0 Mills              |
| 38,001 to 40,000    | 12.5 Mills              | 68,001 to 70,000    | 28.5 Mills              |
| 40,001 to 42,000    | 13.0 Mills              | 70,001 to 72,000    | 30.0 Mills              |
| 42,001 to 44,000    | 14.0 Mills              | 72,001 to 74,000    | 32.5 Mills              |
| 44,001 to 46,000    | 15.0 Mills              | 74,001 to 76,000    | 35.0 Mills              |
| 46,001 to 48,000    | 16.0 Mills              | 76,001 and over     | 2.0 Mills               |
|                     |                         |                     | Per Ton or<br>Fraction  |

Each vehicle (tractor and semitrailer counted as two vehicles) with maximum gross weight exceeding 18,000 lbs. and operating in or through New York State must secure a permit, good until revoked (practice has been to require renewal every three years), at a cost of \$5 each and \$3 for renewal. Temporary emergency permit may be secured

by telegram (good for 15 days) for fee of \$5. Plates are issued and must be attached to rear of trucks and trailers and front of tractors.

Gross weight defined as weight of vehicle plus weight of maximum load to be carried on such vehicle during registration period.

ALTERNATIVE METHOD OF COMPUTING USE TAX: A carrier may elect to compute the use tax on the basis of the unloaded weight of each self-propelled motor vehicle and the number of miles it is to operate on the public highways as follows:

\*(See "Exceptions" below)

#### TRUCKS

| <u>Unloaded Weight<br/>(Lbs.)</u> | <u>Fee Per<br/>Mile</u> | <u>Unloaded Weight<br/>(Lbs.)</u> | <u>Fee Per<br/>Mile</u> |
|-----------------------------------|-------------------------|-----------------------------------|-------------------------|
| 8,001 to 9,000                    | 4 Mills                 | 14,001 to 15,000                  | 11 Mills                |
| 9,001 to 10,000                   | 5 Mills                 | 15,001 to 17,500                  | 12 Mills                |
| 10,001 to 11,000                  | 7 Mills                 | 17,501 to 20,000                  | 14 Mills                |
| 11,001 to 12,000                  | 8 Mills                 | 20,001 to 22,500                  | 18 Mills                |
| 12,001 to 13,000                  | 9 Mills                 | 22,501 to 25,000                  | 22 Mills                |
| 13,001 to 14,000                  | 10 Mills                | 25,001 and over                   | 27 Mills                |

North Carolina North Carolina has a gross receipts tax that is applicable to common carriers licensed in North Carolina. The gross receipts tax applies to all receipts for transportation in North Carolina and any interstate carrier licensed as a common carrier in North Carolina will pay the gross receipts tax on the mileage shipments that are handled in North Carolina. The rate is 7½%. However, the registration fees of common carriers which are considered deposits are credited to any liability on gross receipts taxes. The gross receipts tax does not apply to any carrier not registering vehicles in North Carolina.

North Dakota None

Ohio Mileage Tax

All commercial trucks with three or more axles

and all tractors operating with trailers or semitrailers, (for-hire and private) must have a permit costing \$2.00 per vehicle and good for the life of vehicle. Permits are secured from the Tax Commission. Power units are registered for the greatest number of axles to be used in combination at any time during the quarter and the mileage rate is based on the registered number of axles. If a combination is used having fewer axles than stated in permit, carrier must file for a refund of excess tax paid.

Truck with three or more axles -  $\frac{1}{2}$ ¢ per mile.  
 Tractor-semitrailer combination with three axles - 1¢ per mile.  
 Tractor-semitrailer combination with four axles -  $1\frac{1}{2}$ ¢ per mile.  
 Tractor-semitrailer combination with five or more axles - 2¢ per mile.  
 Truck-trailer combination with four or more axles -  $2\frac{1}{2}$ ¢ per mile.  
 Tractor-semitrailer-full trailer combination with four or more axles -  $2\frac{1}{2}$ ¢ per mile.

Oklahoma

None

Oregon

Oregon has a mileage tax which is assessed against all carriers, private and for-hire, in both interstate and intrastate. Exempt are private carrier vehicles of less than 6,000 lbs. gross weight. Carriers that are granted temporary or emergency certificates under Section 767.170 may pay \$25 annually for each gasoline powered vehicle or \$40 annually for power unit, with other than gasoline, in lieu of the mileage taxes. The mileage tax is as follows:

#### Mileage Tax Table

| Declared Combined (Gross)<br>Weight Groups (Pounds) | Fee Rates Per Mile<br>(Mills) |      | Flat Rate |       |
|---|-------------------------------|------|-----------|-------|
|   | A*                            | B**  | C***      | D**** |
| 0 to 6,000  | 1.5                           | 6.0  | \$ 35     | \$140 |
| 6,001 to 8,000                                      | 2.5                           | 8.0  | 50        | 165   |
| 8,001 to 10,000                                     | 3.5                           | 9.5  | 65        | 195   |
| 10,001 to 12,000                                    | 4.5                           | 11.5 | 75        | 230   |
| 12,001 to 14,000                                    | 5.5                           | 13.5 | 90        | 255   |
| 14,001 to 16,000                                    | 6.5                           | 15.5 | 115       | 285   |
| 16,001 to 18,000                                    | 8.0                           | 17.5 | 140       | 325   |

| Declared Combined (Gross)<br>Weight Groups (Pounds) | Fee Rates Per Mile<br>(Mills)                       |   | Flat Rate |       |
|---|---|---|-----------|-------|
|   | A*  | B**   | C***      | D**** |
| 18,001 to 20,000                                    | 9.0   | 19.5  |           |       |
| 20,001 to 22,000                                    | 10.5  | 21.0  |           |       |
| 22,001 to 24,000                                    | 11.5  | 23.5  |           |       |
| 24,001 to 26,000                                    | 13.0  | 25.0  |           |       |
| 26,001 to 28,000                                    | 14.0  | 26.5  |           |       |
| 28,001 to 30,000                                    | 15.0  | 28.5  |           |       |
| 30,001 to 32,000                                    | 16.5  | 30.5  |           |       |
| 32,001 to 34,000                                    | 17.5  | 32.5  |           |       |
| 34,001 to 36,000                                    | 18.5  | 34.0  |           |       |
| 36,001 to 38,000                                    | 20.0  | 35.5  |           |       |
| 38,001 to 40,000                                    | 21.5  | 37.5  |           |       |
| 40,001 to 42,000                                    | 22.5  | 39.0  |           |       |
| 42,001 to 44,000                                    | 24.0  | 40.5  |           |       |
| 44,001 to 46,000                                    | 25.5  | 42.5  |           |       |
| 46,001 to 48,000                                    | 26.5  | 44.5  |           |       |
| 48,001 to 50,000                                    | 28.0  | 46.0  |           |       |
| 50,001 to 52,000                                    | 29.0  | 48.0  |           |       |
| 52,001 to 54,000                                    | 30.5  | 50.0  |           |       |
| 54,001 to 56,000                                    | 31.5  | 52.0  |           |       |
| 56,001 to 58,000                                    | 32.5  | 53.5  |           |       |
| 58,001 to 60,000                                    | 34.0  | 54.5  |           |       |
| 60,001 to 62,000                                    | 35.0  | 55.5  |           |       |
| 62,001 to 64,000                                    | 36.0  | 57.0  |           |       |
| 64,001 to 66,000                                    | 36.5  | 58.0  |           |       |
| 66,001 to 68,000                                    | 37.5  | 59.0  |           |       |
| 68,001 to 70,000                                    | 38.0  | 60.0  |           |       |
| 70,001 to 72,000                                    | 38.5  | 61.5  |           |       |
| 72,001 to 74,000                                    | 39.0  | 62.0  |           |       |
| 74,001 to 76,000                                    | 39.5  | 63.0  |           |       |
| 76,001 to 78,000                                    | 40.0  | 64.0  |           |       |
| 78,001 and over                                     | Add 0.5<br>mill per<br>ton or<br>fraction<br>of ton | Add 1.0<br>mill per<br>ton or<br>fraction<br>of ton |           |       |

\*TABLE A for all vehicles using gasoline on which Oregon gasoline tax has been paid.

\*\*TABLE B for all vehicles using other fuels or purchasing gasoline outside Oregon.

\*\*\*TABLE C flat fee for vehicles not exceeding 18,000 lbs. and using gasoline on which Oregon gasoline tax has been paid - in lieu of mileage tax.

\*\*\*\*TABLE D flat fee for other vehicles using other fuels, or purchasing gasoline outside Oregon and not exceeding 18,000 lbs. - in lieu of mileage tax.

Tax computed by multiplying extreme mileage traveled in Oregon by appropriate weight group tax rate.

#### TOW-AWAY OPERATIONS

Carriers engaged in towing operations may, in lieu of the above mileage tax, application fee and plate fee, pay a flat fee of \$7.50 for each motor vehicle towed.

#### LOGGING AND CERTAIN CONSTRUCTION VEHICLES

In lieu of mileage fees, carriers engaged in transporting logs, poles or piling or in operation of vehicles equipped with dump bodies and used exclusively in highway or other construction projects may elect to pay fees as follows:

GASOLINE PROPELLED: 99¢ per 100 lbs. of declared combined (gross) weight.

OTHER FUEL: \$2.10 per 100 lbs. of declared combined (gross) weight.

A deposit or bond, in an amount determined proper by the Commission, may be required of all carriers to insure collection of application and plate fees and mileage taxes.

#### Pennsylvania

Pennsylvania has a gross receipts tax which applies to all common and contract carriers. Intrastate carriers pay eight mills per dollar excise tax on gross receipts. Interstate carriers pay the same fee except that the excise tax is assessed against that portion of the gross receipts which mileage traveled within state bears to the total mileage traveled everywhere. All interstate for-hire carriers must register with the Bureau of Corporation Tax, Department of Revenue, even though no tax is due. Gross receipts taxes are not assessed against private carriers.

#### Rhode Island

None

#### South Carolina

South Carolina has a mileage tax assessed by the Public Service Commission on which reciprocity is granted to most interstate carriers.

|               |   |
|---------------|---|
| South Dakota  | None  |
| Tennessee     | None  |
| Texas         | Texas has an intangible assets tax which applies to all for-hire motor carriers and the tax is paid to county tax assessor collectors, although the returns are made to the State Tax Commission. The tax rate is 2.2%.   |
| Utah          | None  |
| Vermont       | None  |
| Virginia      | None, however, Virginia has an "additional road tax" which is collected with the quarterly fuel reports.  |
| Washington    | None  |
| West Virginia | There are no mileage or third structure taxes, however, West Virginia does have a special 3.3% tax on gross income of motor carriers. This tax is allowed as a credit on the regular 6.6% net income tax in West Virginia. The tax applies only to those requiring Public Service Commission intrastate authority.            |
| Wisconsin     | Wisconsin does not have any special third structure taxes. However, there is a quarterly tax which is assessed against any vehicle registered in a state that assesses a third structure tax against Wisconsin vehicles. The quarterly tax is in an amount usually equal to the tax charged by the third structure tax state. |
| Wyoming       | The compensatory fee is \$0.025 per mile traveled or based on unladen weight.   |

| Unladen Weight<br>(Lbs.) | Gas Fuel |         | Other Fuel |         |
|--------------------------|----------|---------|------------|---------|
|                          | Annually | Monthly | Annually   | Monthly |
| Less than 4,000          | \$ 6.00  | \$0.50  | \$ 12.00   | \$ 1.00 |
| 4,000 to 5,999           | 12.00    | 1.00    | 30.00      | 2.50    |
| 6,000 to 7,999           | 24.00    | 2.00    | 48.00      | 4.00    |
| 8,000 to 9,999           | 36.00    | 3.00    | 66.00      | 5.50    |
| 10,000 to 11,999         | 48.00    | 4.00    | 90.00      | 7.50    |
| 12,000 to 13,999         | 66.00    | 5.50    | 108.00     | 9.00    |
| 14,000 to 15,999         | 84.00    | 7.00    | 144.00     | 12.00   |

For vehicles or legal combinations with an unladen weight of 16,000 lbs. or more, the compensatory fee is  $1\frac{1}{2}$  mills per ton mile on unladen weight for those using gasoline, and  $1\frac{1}{2}$  mills per ton mile on unladen weight plus an additional 1.1 mills per ton mile on unladen weight, for those using other fuels.

34  
100  
100  
100

APPENDIX B  
COLORADO GENERAL ASSEMBLY



LEGISLATIVE COUNCIL

ROOM 46 STATE CAPITOL  
DENVER, COLORADO 80203  
839-3521  
AREA CODE 303

June 6, 1980

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REP. PHILLIP MASSARI

Mr. Neil Goldschmidt  
Secretary of Department  
of Transportation  
400 7th Street S.W.  
Room 10200  
Washington, D. C. 20509

Dear Mr. Goldschmidt:

The interim Committee on Transportation of the Colorado General Assembly, as a part of its directive to review the State Rail Plan, has received testimony on the cost to market the 1980 wheat crop in the area affected by the termination of the Rock Island Railroad. Forecasts by the Colorado Department of Agriculture predict that a bumper wheat crop is about to be harvested in Eastern Colorado. Continued rail service during the wheat harvest period on lines once served by the Rock Island Railroad is essential since over 67% of the wheat grown in Colorado is marketed by rail.

The recent passage of the "Rock Island Railroad Transition and Employee Assistance Act" will allow up to \$15 million for directed services over lines of the Rock Island Railroad. The Act provides that the Interstate Commerce Commission shall order directed service for a period of not to exceed 90 days over any line of the Rock Island Railroad, if your Department finds and certifies to the I.C.C. that a lack of rail service exists which cannot be resolved by a grant of interim operating authority over such line and grains or foods are ready to be shipped to market.

The Committee on Transportation is unanimous in its request that you certify to the I.C.C. that Eastern Colorado has a transportation emergency concerning the shipment of



Mr. Neil Goldschmidt  
June 6, 1980  
Page 2

summer wheat by rail. Considering the factors of current market prices and transportation costs, wheat producers in Eastern Colorado could pay an additional \$4.7 million in transportation costs due to insufficient rail service.

Thank you for your consideration of this matter of extreme concern to agriculture in Colorado.

Very truly yours,

Representative William Hilsmeier  
Chairman, Committee on Transportation

Senator Ralph Cole  
Senator Martin Hatcher  
Senator Maynard Yost  
Representative John Davoren  
Representative William Becker  
Representative Jeanne Faatz  
Representative Casey Hayes  
Representative Ray Powers  
Representative James Reeves

WH/mp